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## SUMMER 2016 NEWSLETTER

# REGULATORY CHANGE: CONFUSED BY THE CONSUMER CONTRACT REGULATIONS?

Up until now, independent schools have been able to operate a variety of pupil and parent insurance schemes such as personal accident and fees refund using an 'opt-out' method. An insurance premium has been included on a school fee account and cover has been assumed unless the parent 'opts out' of the insurance scheme by letting the school know. The Consumer Contract (Information, Cancellation and Additional charges) Regulations 2013 (CCR) have somewhat changed the landscape.

### BACKGROUND

The background to these regulatory changes stems from the Financial Conduct Authority's (FCA) consultation and review of insurance 'add-ons' and although the FCA did not have independent schools in mind when making these changes, schools have been swept up along the way.

At first glance, the CCR appear not to effect the historic methods by which schools have provided protection to pupils and parents. Under section 6.(1) Limits of Application, it states that 'These regulations do not apply to a contract to the extent that it is for services of a banking, credit, **insurance**, personal pension, investment or payment nature'. However, this exemption does not apply where the insurance is an additional item linked to the main contract (in this case school fees) and it is sold as a negative option ie. the parent has to 'opt-out'. So where the school is the Principal and it is marketing an insurance contract to a consumer (parent) they would fall within the regulations.

When the school is purchasing the insurance however it is not regarded as a consumer because it is dealing wholly in the course of its normal business activity and the regulations do not apply.

### THE OPTIONS FOR SCHOOLS

As a result of these changes, independent schools have three options:

- Purchase the insurance from the supplier and either bear the cost or pass the cost on to the parent within the school fee ie. not as an extra on the fee bill.
- Operate a mechanism whereby, although the premium, is added to the fee bill, an 'express consent' is obtained from the parent that the cover is wanted. For example, this could be the completion of an application form.
- Draw insurance to the attention of parents and direct them to a supplier who can provide cover on individual basis ie. the parent can decide whether or not to buy any insurance cover.

As can be seen, the CCR have changed the way in which parents can be offered insurance cover when their child enters independent school. With many schools now electing to include some insurance within the basic fee structure, the cost of this insurance is now more important than ever. Later in this newsletter you can find details of all the SFS parent and pupil insurance covers which are available to purchase by the school as a group scheme or by parents directly from our website.

### EDITOR'S COMMENT

Welcome to the Summer 2016 edition of the SFS newsletter for independent schools. I do hope that you will find its content both informative and interesting.

In this edition, we feature pupil and parent insurance schemes and the related regulation changes that seem to have caused so much confusion and uncertainty. The way in which these traditional insurance schemes can be operated has changed and we'll be happy to have a conversation with any school that is still unclear on what can and cannot be done.

Here at SFS, we've been quietly going about our business of providing value for money insurance products and services and it's been gratifying to have been asked to provide quotes for many more schools. The general insurance proposition we now provide to schools has genuine choice as we have agency arrangements with most of the major insurers of independent schools.

Topics of the moment include the ongoing Goddard Inquiry into non-recent abuse. Our series of breakfast briefings featured Goddard amongst other subjects and if you missed the briefings then we can always let you have the guide notes. Simply drop us a line at [info@sfs-group.co.uk](mailto:info@sfs-group.co.uk).

Finally, and although it is quite a dry subject, we have featured the Insurance Act 2015 in this edition of our newsletter. It is an important piece of legislation and introduces a number of changes which schools will need to be aware of.

As ever, please contact us about products, services, quotes or information that you might need. Our friendly and knowledgeable staff will be happy to help.

David Collard  
Managing Director

## THE INSURANCE ACT 2015

This important piece of legislation received the Royal Assent on 12th February 2016 and comes into effect on 12th August 2016. The Act is seeking to create a new and fairer balance between policyholder and insurer and will have a significant impact on how insureds and insurers approach policies, creating new duties for insurers and policyholders to comply with.

### KEY CHANGES

The Act will affect all policies renewed after 12th August 2016 and impacts the key areas of:

- Duty of Disclosure and Misrepresentation
- Insurance Warranties
- Fraudulent Claims

### DISCLOSURE

Under the Act, the insured has a duty to make a 'fair' representation of the risk to the insurer. This means that the insured must disclose every material circumstance which it knows or ought to know or, failing that, the insured must give the insurer sufficient information to put a prudent insurer on notice that it needs to make further enquiries for the purpose of revealing those material circumstances.

The fundamental difference between this Act and its predecessors is that the onus has been shifted towards the insured. It is no longer possible for an insured to plead that he was not asked sufficient questions by the insurer.

There are also new remedies for insurers in the case of misrepresentation depending on whether the misrepresentation is deliberate and reckless or non-deliberate and non-reckless.

### INSURANCE WARRANTIES

Under the current law, breach of a warranty in an insurance contract means the insurer is automatically discharged from liability completely from that point onwards, even if the breach is remedied.

Under the new Act breaches of warranty can be cured, all warranties will become 'suspensive conditions'. What this means is that cover is suspended for the period during which the warranty is not complied with. Furthermore, this means that an insurer will be liable for losses that take place after a breach of warranty has been remedied, assuming that a remedy is possible.

### FRAUDULENT CLAIMS

The Act provides the insurer with clear statutory remedies when a policyholder submits a fraudulent claim. If a claim is tainted by fraud, the policyholder forfeits the whole claim, they cannot recover the part of the claim that would genuinely have been payable.

The Act makes special provision for situations in which a member of a group insurance policy (i.e. a policy arranged by one insured for a number of insureds, such as group annual travel insurance) makes a fraudulent claim. Where this happens, the insurer will have a remedy against the fraudulent member but it will not affect the other members or the insurance policy as a whole – cover will remain in place for the other 'innocent' beneficiaries.

### WHAT CAN YOU DO NOW TO ALIGN YOUR BUSINESS INSURANCE NEEDS TO THE NEW ACT?

Even though the new duty to make a "fair presentation of the risk" will only relate to policies that you place, renew, or vary as from 12 August 2016, we recommend that you start preparing now, by thinking about the following in advance:

- Start the renewal process earlier. Your broker will need to ask you more questions this year and the process may take longer than usual.
- Identify your 'senior management'. Your duty of disclosure extends to include relevant information known by 'senior management'.
- Raise awareness of the Act internally with leadership teams and governing bodies.
- Review your data gathering process. Do you ask enough questions of senior management?
- Identify information you 'ought to know'. Who else might you need to consult to be able to provide relevant information to the insurer?

Your insurance broker or intermediary should be well versed with the Act and will be able to advise you on the sorts of information and material facts that need to be disclosed to insurers. Do ensure though that you allow more time for the annual review meeting.

If you would like a copy of our bulletin on The Insurance Act 2015 then please send an email to [info@sfs-group.co.uk](mailto:info@sfs-group.co.uk) with Insurance Act as the subject line.

## Changing health and life insurance for good

Vitality means you don't have to claim to benefit from your insurance.

We're making it cheaper and easier to live healthier by rewarding members for getting active.



## PUPIL AND PARENT INSURANCE SCHEMES NOW AVAILABLE ONLINE

Insurance schemes for pupils and parents have been operated at independent schools since the 1920's when the very first Schools Fees Remission scheme was introduced. In addition to being an insurance policy for the parent, this scheme also provided schools with a useful source of income as commission was shared between the broker and school. Even now, some schools are still receiving commission for running an insurance scheme but this is something that must stop under the new regulations.

### THE FOUR MAIN INSURANCE SCHEMES OPERATED AT SCHOOLS ARE:

#### 1. Fees Refund

There are a variety of schemes which feature refunds of school fees to parents for varying period of absence. There has to be a minimum length of absence before the policy comes into effect typically 5 days and the longer this minimum absence period, the cheaper the premium will be.

#### 2. Pupils' Personal Accident

The most popular of all insurance schemes operated at schools. A lump sum is payable to a pupil that suffers a permanent disability as a result of an accident. Premiums are cheap compared to the benefits.

#### 3. Personal Possessions

Schemes of this type were traditionally operated by boarding schools but are now operated at significant numbers of day schools due to the ever more valuable items now taken to schools by pupils such as laptops and tablets.

#### 4. Life Insurance

This is our unique School Fees Trust Scheme which has now been running for over 25 years. It provides payment of the school fees directly to the school in the event of the death or serious illness of the parent.

The recent regulatory changes have affected all of these schemes other than the School Fees Trust Scheme which has always operated on the basis that a parent must complete an application form in order to join the scheme.

### THE WAY FORWARD

If a school decides to continue offering insurance schemes to parents, it must decide which method of operation to adopt. With the exception of the Schools Fees Trust Scheme, the choice for schools is either a compulsory scheme whereby the insurance cost is included within the fee structure along with all other costs or alternatively, the school can simply refer a parent to a company which has insurance policies available for purchase.

Our recommendation is that schools should continue to provide personal accident insurance to pupils on an inclusive basis but that fees refund and possessions insurance schemes are a matter of choice. The value of personal accident insurance has been proven time and again and with the premiums starting from as little as £9 per year inclusive of Insurance Premium Tax, it provides excellent value for money. SFS has all other insurance policies available to purchase online at [www.sfs-group.co.uk](http://www.sfs-group.co.uk).

Please contact us at [info@sfs-group.co.uk](mailto:info@sfs-group.co.uk) for more information.

### BUYING OR RENEWING PRIVATE MEDICAL INSURANCE?

If your school provides private medical insurance for some key members of staff, it would be well worth taking a look at the Vitality product as a comparison.

When SFS first began its relationship with Vitality over three years ago, we were excited by the prospects for this new and unique proposition but we certainly didn't envisage the Vitality brand being quite as well-known as it is now. As an interesting aside, sales of the dachshund dog have soared since it first appeared alongside Jessica Ennis and Joe Root!

### THE VITALITY DIFFERENCE

The normal 'rule of thumb' for medical insurance is that only 20% of policyholders will be able to receive a benefit and this is because they will have experienced a claim. With Vitality, every policyholder can benefit whether they make a claim or not. Put simply policyholders have at their disposal a wealth of features and benefits which are not available with other providers.

These benefits are not gimmicks. They help keep employees healthy which is not only good for the individual but the employer too. And if a claim does occur then the employee and employer can choose when they would like any treatment to take place such as in the school holidays. There are no shortfalls on treatments and full cancer treatment comes as standard.

### FULLY FLEXIBLE

Vitality insurance packages are fully flexible and only two members of staff are needed to start a scheme. Each scheme can be tailored to suit the requirements of an individual school meaning that Vitality really is an option for all sizes of scheme. From our experience, Vitality is particularly cost effective where there are between 10 and 25 members of staff to be insured.

To obtain a quote simply email us at [info@sfs-group.co.uk](mailto:info@sfs-group.co.uk) stating when your present scheme renews and we will contact you in good time. Obtaining a quote is completely without fee or obligation.

## THINKING OF MAKING A CHANGE?

During the past 12-18 months, there has been a noticeable change in approach by independent schools when deciding to run an insurance tender process. Several schools have now done this in two parts: Firstly choose a broker and then secondly instruct that broker to run the tender of insurers.

Although there are not large numbers of insurers queuing up to underwrite independent schools there is a sufficient number that should allow an informed comparison. The difficulty comes when collating any quotes received and then making a comparison between the options available. Policy wordings can vary significantly between insurers.

The change by independent schools in their approach to tendering has coincided with our strategic decision to provide a genuine broking service with at least three insurer options. In the past, a school might have invited three brokers to tender with each one producing a quote from its 'favoured' or even contractually exclusive insurer. This situation makes it very difficult for the school to make a fair comparison.

This new approach by schools begins by selecting the broker who will then organise for quotes to be obtained from the market and present the best options to the school. The broker tender process can be organised by the school in whichever way it sees fit but should ordinarily cover the following:

- What experience of independent schools is the broker able to demonstrate?
- Who will be the Relationship Manager and what is their experience of independent schools?
- What happens when claims occur?
- Which insurers does the broker have access to?
- Will the broker charge a flat annual fee or collect commission from the insurer? If the latter, how much is that commission and does the broker also benefit financially from any other 'agreement' with insurers?
- Is the broker up to speed in regard to the new Insurance Act 2015?

There are naturally many more questions that can be asked of prospective brokers and the above is a very small sample.

One important step in the broker tender process is that a school should forbid the prospective brokers to make **any contact with insurers** until such time as the school has appointed its broker. This will ensure that no 'deals' are struck behind the scenes between brokers and insurers.

If you have a long term undertaking which expires in 2016 or 2017 then please do not hesitate to make contact with David Collard or John Hooker at [info@sfs-group.co.uk](mailto:info@sfs-group.co.uk) who will be very pleased to talk through the available options.

The image displays six brochures from SFS Insurance for Independent Schools. Each brochure is designed with a clean, professional layout, featuring the SFS logo and a clear title. The brochures cover various insurance products: Fees Refund Insurance, Pupils' Personal Accident Insurance, School Fees Trust Scheme, Tablet and Laptop Insurance, and Annual Travel Insurance. Each brochure includes a brief description of the product and a list of key features or benefits. The brochures are arranged in a slightly overlapping, fan-like pattern, showcasing the range of services offered by SFS.

For further information regarding our products and services please contact us via one of the methods below:

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01306 746300 [info@sfs-group.co.uk](mailto:info@sfs-group.co.uk) [www.sfs-group.co.uk](http://www.sfs-group.co.uk)

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