

The Principle and Application of Utmost Good Faith in Insurance

To apply the principle of utmost good faith, complete honesty is required from both the insured and the insurer. In exchange for your presentation of all material facts to the risk that are accurate and true, the insurer shall provide a certain level of insurance coverage based on the information you have provided.

Uberrimae Fidei: What it means



An insurance contract is possible on the premise of the highest level of truth and integrity between the client and insurer/ broker/ agent / related parties that the material facts provided are accurate and true. Violation of this principle permits the insurer to cancel the contract.

Uberrimae Fidei means “of the utmost good faith.” This principle is the fundamental tenet of insurance contracts. In order to appreciate the concept of uberrimae fidei, you must first understand one crucial factor that determines the view of yourself as well as that of others. This factor is honesty. Honesty applies at all times. Honesty in one part of your life and dishonest in another means you are not truly honest. This fundamental understanding is the basis upon which an insurance contract is made. When proposing to the insurer/ broker/ agent, your truthfulness shall pay off, as they in turn shall make an offer, which provides full details to the coverage, exclusions and clauses on the coverage prior to holding cover on the risk. If not, the terms offered are on incorrect information and therefore you will not have the intended peace of mind that your insurance is sufficiently mitigating the related risks. The insurer and / or the broker obtains this information using a proposal form. Additional questions might also be asked in order for the insurer to offer insurance terms that are tailor-made for the risk to be covered. The Insurance Act 2015 in the United Kingdom specifically amends the previously held definition of the duty of disclosure, offering additional protection to policyholders, for example, if the insurer does not ask a question related to the risk, if a claim occurs, the insurer has waived his right to repudiate the claim on the grounds of non-disclosure. It is important to note that this amendment effected only in the United Kingdom, not in Tanzania, although we anticipate its adoption. The details are as stated below:

The fair presentation should:

- Disclose information in a reasonably clear and accessible manner.
- Ensure that: (i) every material representation as to a matter of fact is substantially correct; and (ii) every material representation as to a matter of belief or expectation is made in good faith.

This amendment lessens the burden on clients and levels the playing field during negotiations between the insured and the insurer (with additional parties as well, where necessary).

Some examples of acting with utmost good faith are below:

1. When purchasing Motor insurance, informing the insurer that you had 4 accidents in the last two years with evidence.
2. When purchasing insurance for a residential / commercial property, inform the insurer that there is a bakery on the ground floor. Don't misrepresent the risk, for fear of an increased rate.
3. Inform your broker about pre-existing medical conditions when purchasing individual life insurance

Therefore, strive to handle your affairs truthfully, and trust that when you share the information with the broker / insurer / agent / related party, that the insurance terms offered are accurate and appropriate for your risk profile.

Your Role as the Insured



In order to establish a relationship of trust with your insurer / broker / agent / related parties, in all matters relating to your insurance, stay diligent and professional.

We have prepared a list of actionable steps you can take to set a benchmark in applying the principle of utmost good faith, with comments explaining why the action would be of value to your insurance programme:

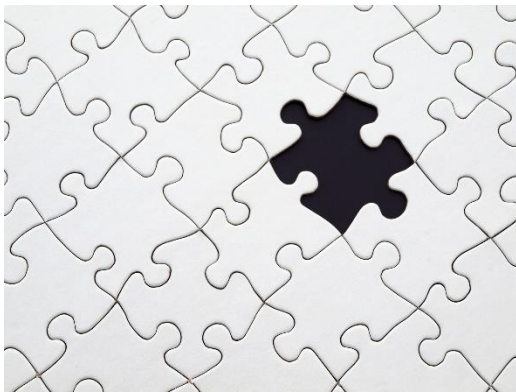
1. Inform your insurance broker of all material facts and changes in writing
Your broker will advise whether existing insurance policies cover the changes and if not, advice policies that do if required.
2. Agreements or undertakings entered into can give rise to high exposures for which specific insurance protection will be required.
Your broker will ensure that the new undertaking is covered within your policy, and if necessary, provide guidance on how to prepare for unexpected contingencies in the form of modifying limits, sum insured or extensions.
3. Implement any risk management/control measures required by insurers as may be communicated from time to time
By implementing the risk management / control measures by insurers, depending on the nature of the risk, you might be eligible for a discount.
4. Cooperate and provide all the required claims information within reasonable time following request by the broker or the authorized Insurers' representatives

Go the extra mile in obtaining all information related to your claim to increase the chances of the insurer treating the claim fairly.

5. All policies contain conditions regarding the prompt notification of claims. Your employees must be aware of this and must report to the management all incidents that may give rise to a claim.

Create a culture of accountability and responsibility that ensures insurance is taken seriously by all staff to report claims to the broker/ insurer/ agent in good time after the incident occurs.

The Role of your Insurer / Broker / Agent



Your insurer / broker / agent / related parties have an ongoing responsibility to evaluate the risk and set terms / assess that objectively capture the risk

Below are some of the roles that your insurance service provider must exemplify in order to demonstrate their adherence to the previously defined uberrimae fidei:

1. Timely issuance of risk notes/cover notes followed by the policy document with the agreed terms
2. Arranging for agreement of any necessary amendments and endorsements during the insurance year particularly as advised by you in writing
3. Where required, provision of general advice on insurance and risk management issues and any other related matters, that in certain cases, this may necessitate outsourcing and payment by you of a fee.
4. Prompt processing of claims reported and providing advice on submission, negotiation, compliance and use of appointed adjusters.
5. Any other process to ensure that you are taken seriously

The above lists are not exhaustive, however, they summarise the considerable collective responsibility on you and your insurance service provider to adhere to the extremely important principle of utmost good faith.

For more information on the duty of disclosure, please see Issue #1 of the ARiSe Newsletter addressing the topic of Disclosure of Material Facts.

“Relationships feed on credibility, honesty, and consistency” – Scott Borchetta