

GISC – the new insurance watchdog

by Jim Beveridge



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Much publicity has surrounded the new *Financial Services and Markets Act*, but this statutory legislation does not cover all financial services. Regulation of general insurance will soon be in the hands of a single independent body, and businesses with any interest in general insurance need to take action now, or risk limiting their business opportunities.

It is vital for any lawyer arranging general insurance (commercial or personal) for clients to know about the new regulator for the industry, the General Insurance Standards Council (GISC).

GISC is the new, single independent self-regulatory body, whose objective is to bring coherence to a fragmented regulatory system, and indeed to bring regulation to thousands of entities whose insurance activities are currently unregulated, such as retailers, banks and building societies – thus providing greater protection for consumers. While the Financial Services Authority was created as the single statutory regulator in the financial sector, the Government decided that statutory regulation of the transaction of general insurance business was unnecessary, and that the *Insurance Brokers (Registration) Act 1977* would therefore be repealed (the Insurance Brokers' Registration Council was dissolved 30 April 2001). In July 1998 Helen Liddell, then Economic Secretary to the Treasury, announced that a consultation exercise undertaken by the Government had led her to conclude that the 'case for continuing statutory regulation of insurance brokers has not been made ... it no longer fully meets the needs of today's market'.

Mrs Liddell stated that:

'...to maintain and improve professional standards in the transaction of non-life insurance business (such as car and house insurance) by brokers and other intermediaries, the Treasury will look to voluntary self-discipline rather than statute',

and confirmed that a majority of those consulted felt that:

'...the best way forward was self-regulation by a body having support across the insurance industry, independent of insurers and intermediaries, taking their interests and those of their customers into account'.

Accordingly, a consultation paper was issued jointly by the Association of British Insurers (ABI), the Association of Insurance Intermediaries and Brokers (AIIB), the British Insurance and Investment Brokers Association

(BIIBA, now known as BIBA), the International Underwriters Association/London Insurance and Reinsurance Market Association (IUA/LIRMA), Lloyd's and the Lloyd's Insurance Brokers Committee (now known as the London Market Insurance Brokers' Committee). Together these bodies account for the vast majority of insurance placed and underwritten in the UK, and their intention was to inform general insurance practitioners and consumer groups about the proposed self-regulatory regime for advice on, and sales of, general insurance and reinsurance in the UK, and to seek views on the proposals. The name of the proposed regulatory body was the General Insurance Standards Council (GISC).

GENERAL INSURANCE – A BROAD SCOPE

The regulatory scope of GISC is: members' general insurance activities engaged in from a permanent place of business within the UK. General insurance activities include any activity which, when undertaken in connection with a general insurance product, is regulated by the GISC codes. The GISC codes have been produced in two forms – a plain English version for consumers, known as the Private Customer Code, and a Commercial Code for businesses buying insurance – but they both embody the same broad principles.

Arranging insurance for a client, or simply recommending a client to an insurance intermediary or insurer, therefore falls within the scope of GISC. Thus, in addition to insurers, wholesalers, brokers and intermediaries whose core business is the transaction of insurance, GISC will embrace loss adjustors and claims outsourcing providers and the thousands of businesses for which general insurance is not a core activity, such as estate agents, travel agents, banks and building societies, car dealers, many types of retail outlets – and, of course, lawyers.

GISC addresses two separate insurance-buying groups:

- Individual consumers ('private customers') who are likely to buy products such as: insurance for homes

(buildings and contents), vehicles, caravans, boats and pets; travel insurance; private medical, dental and personal accident insurance; extended warranty and breakdown insurance; legal expenses insurance; and payment protection for mortgages and other loans;

- Businesses ('commercial customers') buying insurance in respect of a business, e.g. employers' liability; property and public liability; business interruption; goods in transit; key man insurance (GISC does not regulate life assurance and pensions).

More specifically, in the Rules the scope of GISC was confirmed as the general insurance contracts listed in Schedule 2 to the *Insurance Companies Act 1982*, including Private Medical Insurance, Healthcare Cash Plans, Mortgage Payment Protection Insurance and Personal Accident/Sickness Insurance.

THE GISC RULES – GOOD BUSINESS PRACTICE NOT UNATTAINABLE IDEALS

The GISC Rules cover two main areas:

- How members deal with customers (the principles of which are set out in the GISC codes);
- Rules to ensure members' businesses are run soundly.

In addition, the GISC Rules require that all members meet competency and training standards, and that intermediaries meet financial criteria such as the segregation of insurance moneys, minimum levels of professional indemnity insurance, and the maintenance of sufficient assets to meet liabilities. It is important to stress that these Rules were developed in consultation with the industry and with consumer groups. GISC believes they therefore represent a sensible balance between good business practice (not unattainably high ideals) and consumer protection.

To ensure consumers are protected wherever they buy their insurance – through an insurance intermediary or a retailer or direct from an insurer – and whether they buy face-to-face, over the telephone, or via the Internet or Digital TV, the industry needs a single coherent regulatory system. By requiring GISC members to deal with intermediaries in the distribution chain who are also regulated by GISC (either as members themselves, or as an appointed agent of a member), this single system will exist, and this will happen when Rule F42 and associated amendments are brought into force.

Rule F42 reflects the policy, encouraged and supported by the Government and ministers, that there should be a single independent regulator to replace the current unsatisfactory mix of codes, statutes and byelaws, and is seen as the best alternative to statutory regulation under the *Financial Services and Markets Act*. In January 2001 the Office of Fair Trading ruled that:

'...none of the Rules notified by GISC, by themselves or in combination with the other Rules, have as their object or effect

an appreciable prevention, restriction or distortion of competition within the UK ... The Rules are aimed at ensuring that members of GISC are competent to carry on general insurance activities and that there are safeguards in place to protect consumers'.

This important decision paved the way for GISC to announce on 12 March the timetable for the implementation of Rule F 42:

- From 1 September 2001, members of GISC (including their appointed agents and sub-agents) will only be permitted under the Rules to deal with intermediaries who have submitted an application for membership of GISC;
- From 31 December 2001 members of GISC (including their appointed agents and sub-agents) will only be permitted under the rules to deal with organisations acting as intermediaries who have been accepted into membership of GISC.

Commenting on the implications of the timetable, GISC Chief Executive Chris Woodburn said:

'The timing gives all potential members five months in which to submit their application and a further four months for GISC to process these prior to 31 December. However I very much encourage firms to apply sooner rather than later and well before the deadline. Applicants who feel that they may not be fully compliant with the Rules should not delay their application but contact GISC to discuss areas of doubt, with a view to achieving full compliance at the earliest practical date'.

GISC has a team of advisers (available on 020 7648 7810) who can talk businesses through the options available to them, and discuss how the rules would apply to their particular circumstances. Potential members are strongly urged not to delay the submission of an application for membership of GISC. Taking the initiative now gives two important benefits. Firstly, it can help to ensure current business arrangements are not jeopardised – indeed insurers and intermediaries with whom a firm deals may have already been in contact explaining that they only wish to deal with GISC-regulated business partners from a specified date. Secondly, joining GISC demonstrates a commitment to sound business practice and good customer service, and in PR terms such a commitment is invaluable.

The Law Society is negotiating with the GISC with regard to the GISC membership of solicitors' firms selling insurance products, or advice in relation to them. 

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For further information on GISC, please visit www.gisc.co.uk or call 020 7648 7810.