

# DISCLOSE ALL MATERIAL FACTS WHEN BUYING INSURANCE

By Noella Mutanda

*It is the person buying the property or life insurance who knows all the risks they want to insure. The principle of utmost good faith is in essence a security against fraud*



In my interactions with consumers of insurance products and services, I have come to the conclusion (sadly) that most Kenyans are largely ill informed on matters insurance.

Most of us take insurance covers to avoid being caught on the wrong side of the law; simply said, we buy insurance to comply! With this being the motivation, we are lost on some very crucial aspects of insurance that come into play when we want the insurance companies to honour their word and pay.

It is important to note that insurance contracts are legal and that both the insured (consumer) and insurer (insurance company) have to play within certain rules for the contract to remain enforceable.

Insurance companies rely on information provided by a consumer to decide whether to insure a risk or not. Insurance policies are based on trust. The insurer trusts the policyholder to give precise and true details of the proposed insurable interest.

This is called the principle of utmost good faith. This principle requires the customer to provide correct information to the insurer. The insured must also tell the truth when making a claim following a loss. This is one of the rules that make an insurance contract enforceable.

When you express interest to buy insurance, you will be asked to fill a proposal form. The proposal form is designed to obtain information from you concerning the property or life you want to insure.

The form contains relevant questions which you must answer truthfully. It has a section called declaration which you must sign to prove that all the information you have given is correct and true to the best of your knowledge and belief.

Under ordinary commercial contracts, one is given the opportunity to examine what they want to buy and therefore make a decision based on what they have seen.

This is however not the case with insurance, where the facts upon which the contract is based are only known by the party buying insurance. For example, when one is buying motor vehicle insurance the insurer will ask for the value of the car, its model, make, age and the like.

This will make the insurer understand the level of risk in insuring the car. Such information will enable the insurer to choose to cover the car or not and

therefore it must be as accurate as possible.

It is the person buying property or life insurance who knows all the risks he wants to insure, while the insurance company does not know yet it is expected to pay in the event of a loss.

Further the principle of utmost good faith is in essence a security against fraud. This is because there are some instances where some people present fraudulent claims to insurance companies.

Examples include reporting theft of a car which has actually been sold off, reporting injury in a road accident yet the purported injuries were sustained elsewhere, presenting a relative for treatment under a medical policy while the relative is not covered in the policy and even worst case scenarios of 'killing' a relative to claim the life insurance.

Engaging in acts of dishonesty such as these amounts to a breach of utmost good faith and can lead to a claim being declined and the claimant being prosecuted in court.

The need for consumers to say the truth and disclose material facts before getting into an insurance contract cannot be overstated.

When filling the proposal forms, it is imperative that correct information is provided. Always remember that the disclosed information influences the insurer's decision in accepting or rejecting an insurance proposal.

The facts also determine the terms and conditions of insurance contracts. It is important to note that in the event of non disclosure, the insurance company may reject a claim or cancel the contract leading to a loss to the policy holder or insurance beneficiaries.

Therefore, care should always be taken to tell the whole truth so that both the insured and insurer have shared and common information about the insurable interest.

Equally, having effected an insurance policy, one should read the policy document very carefully so as to ensure that they understand the terms of the policy and the aspects of the risk that the policy covers and those that are not covered.

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