

# Guarantee Protection Insurance Limited

## Approach to Accepting Insurance Backed Guarantee Business from Non-Authorised Firms



### Regulation of Insurance Mediation Activities

All members of the Property Care Association (PCA) should be aware of the regulations involved in respect of general insurance products, such as Insurance Backed Guarantees.

Any firm that undertakes “insurance mediation activities” in the UK “by way of business” must either be authorised by the Financial Conduct Authority (FCA) to do so or be exempt from regulation, which could be in the form of being an “appointed representative” of a firm authorised by the FCA (or Prudential Regulation Authority), such as Guarantee Protection Insurance Ltd (GPI).

Any firm who does undertake insurance mediation in circumstances where they should be authorised, but are not, will be committing an offence.

GPI, being an authorised firm, is not permitted to deal with firms who should be authorised by the FCA to carry on insurance mediation activity but are not.

The arrangements through which PCA Member Contractors make GPI’s Insurance Backed Guarantee products available to their customers do involve those PCA Member Contractors undertaking insurance mediation activities (one of those activities being “arranging” insurance which is very widely defined). However, as mentioned above, PCA Member Contractors would only require FCA authorisation if they were to undertake such activities “by way of business”.

The relevant legislation provides that a firm does not carry on insurance mediation activity by way of business unless it takes up or pursues that activity for remuneration. So if your firm does not receive remuneration in relation to the activities it does that are involved in the provision of GPI’s insurance products, the firm does not need to be authorised by the FCA.

### Remuneration

The FCA looks at remuneration in two categories – *direct* and *indirect*.

An example of *direct* remuneration is a separate fee charged specifically for insurance mediation services provided. The administration fee which many PCA Member Contractors charge their customers for GPI’s insurance products is potentially, therefore, *direct* remuneration.

GPI has recently sought both legal opinion and separate opinion from our external compliance consultants, as a follow up to guidance historically provided by the Financial Services Authority (FSA) in 2004 (the FSA has now been replaced by the FCA), on the question of whether PCA Member Contractors will be regarded as being remunerated for their insurance mediation activities. GPI is now comfortable that, subject to the point mentioned below, a PCA Member Contractor will not need to be FCA authorised where either:

- i. the firm does not charge any administration fee for arranging the GPI insurance policy, charging customers only the premium (plus Insurance Premium Tax) charged by GPI; or
- ii. where the firm does charge an administration fee, it does not exceed a reasonable estimate of the fixed (i.e. business overhead) costs which are attributable solely to the insurance related activities (these costs should be assessed periodically – annually for example – and adjusted as necessary) – i.e. “actual cost”.

In addition, the fact that the insurance is included in the quote or the fact that the customer has the option to purchase the insurance must not be used by the PCA Member Contractor to obtain *indirect* remuneration in the form of either:

- i. a higher price for services; or
- ii. a marketing edge, i.e. to secure a sale where a customer may be wavering (between, for example, the PCA Member Contractor’s services and those of a competitor who is not offering insurance).

The FSA was aware historically that PCA Member Contractors charged their customers an administration fee of approximately £25 per contract, although GPI recognises that this administration fee is now typically an amount of up to £35. However it must be understood that it is the responsibility of an individual PCA Member Contractor to satisfy itself, as far as its own position is concerned, that any administration fee it charges represents only its “actual cost” and no more and that it does not require FCA authorisation for the purposes of the activities it undertakes in relation to GPI’s insurance products.

## **GPI's Stance**

As mentioned previously, under FCA regulation GPI is not permitted to deal with firms who should be authorised by the FCA to carry on insurance mediation activity but are not. GPI has decided to maintain its historic stance and is happy to continue to deal with PCA Member Contractors who either:

- i. do not charge any administration fee; or
- ii. do charge an administration fee of up to £35 per contract/policy request,

provided that (a) the PCA Member Contractor must not make a major feature of the possibility or fact of an Insurance Backed Guarantee being included in its advertising/marketing/sales process and (b) aside from the administration fee and the insurance premium, the PCA Member Contractor must not charge its customers a greater amount for its services than would be the case if it were not also arranging the sale of a GPI policy for their customers.

The provision of insurance should be no more than ancillary to the sale of a PCA Member Contractors building service.

GPI's position in respect of a PCA Member Contractor who wishes to charge an administration fee of more than £35, is that it will only be able to do so where it becomes an appointed representative of GPI (and meets the conditions for that).

## **Requirements on PCA Member Contractors who are not FCA authorised**

There are also restrictions on the promotion of insurance products. Any unauthorised firm who promotes GPI's insurance may be carrying out insurance mediation activities when not authorised to do so. To avoid this GPI have created literature in the form of the "Be Sure, Insure" leaflet in order that the PCA Member Contractors, offering GPI's insurance, can issue this promotional leaflet and do not require to produce any additional literature of their own.

When a PCA Member Contractor (who is not FCA authorised or an appointed representative of GPI) is providing a quotation in respect of a potential Damp Proofing, Timber Treatment, Wall Tie, Lateral Restraint or Structural Waterproofing contract, it is important that the customer is also provided with specific information in respect of both GPI and our Insurance Backed Guarantee product. As such, the GPI "Be Sure, Insure" leaflet must be provided at the same time as any quotation for an Insurance Backed Guarantee is provided to a customer, as all relevant information is contained within this document. Up to date copies of the GPI "Be Sure, Insure" leaflet can be obtained freely from the Guarantee Protection Trust (GPT) Members Area of our website or by contacting our Administration Team.

At this time, the customer can also be provided with a Policy Summary by a PCA Member Contractor, although the "Be Sure, Insure" leaflet makes customers aware that this document is freely available to review on the GPI website.

Where a customer has any queries regarding the cover provided by a GPI insurance product, they should be advised to direct such a query to the GPI Administration Team who will be happy to assist with any query.

Where an offer of insurance is taken up by a customer, a policy should be applied for to GPI immediately after the works have been completed; all monies have been paid (with the exception of any agreed retention) and after the PCA Member Contractor has issued a written guarantee to the customer. The customer must have accepted your quotation and paid to you the appropriate insurance premium (including Insurance Premium Tax).

A PCA Member Contractor is able to apply for this type of insurance from GPI through our online system as well as the traditional method of written application through the mail.

Online Submission:

- i. Log into the Members' area of our website and click on button 'Add Submission'.
- ii. Complete the online application form by entering all information requested. Once finished, click on button 'Submit Application' which can be found at the foot of the screen.  
Please note - where more than one property is affected or the work has been completed on a block of flats, an online application form must be completed for each and every property/flat.
- iii. This submission is then sent to GPI electronically who will contact you by e-mail with an invoice detailing the latest submissions you have applied for.
- iv. Payment for the full invoice amount should be made to GPI as soon as possible. This can be done by either a BACS transfer payment (bank details will be shown on the invoice) or by cheque.
- v. All policies will be posted out directly to your customer via the mailing details previously provided as soon as invoices have been settled (unless agreed otherwise).

Paper Submission:

- i. Complete an Application Form by entering all information requested.  
Please note - where more than one property is affected or the work has been completed on a block of flats, an application form must be completed for each and every property/flat.
- ii. You must also complete an IPT Declaration Form which details the breakdown of payment.
- iii. Send the Application Form, IPT Declaration Form and cheque payment to our Ayr Administration office for processing.

Should a PCA Member Contractor or a customer have any queries in relation to the provision of a GPI insurance product, please contact our Administration Team on 01292 268020 (option 5) who will be happy to assist. Alternatively, please e-mail any query to [info@gp-insurance.co.uk](mailto:info@gp-insurance.co.uk).

**Guarantee Protection Insurance Ltd is registered in England as a Limited Company, with the Registration Number 03326800, and the Registered Office of 14 Castle Street, Liverpool, L2 0NE. Guarantee Protection Insurance Ltd is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.**