



# Treasury Sub-Committee on Financial Services Regulations

## Oral evidence: Multi-occupancy building insurance, HC 1711

Wednesday 12 July 2023

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Members present: Harriett Baldwin (Chair); Rushanara Ali; Mr John Baron; Dame Angela Eagle; Emma Hardy; Anne Marie Morris.

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### Witnesses

I: Johnny Timpson, Member, Financial Services Consumer Panel; Anthony Essien, Chief Executive, Leasehold Advisory Service.

II: Sheldon Mills, Executive Director, Consumers and Competition, Financial Conduct Authority; Matthew Brewis, Director, Insurance and Conduct Specialists, Financial Conduct Authority.

### Examination of witnesses

Witnesses: Johnny Timpson and Anthony Essien.

**Chair:** Good afternoon. As we convene the Treasury Sub-Committee on Financial Services Regulations to cover multi-occupancy buildings insurance, I should note that many of us, myself included, live in multi-occupancy buildings with insurance. We all declare our interest. Indeed, I know this is a subject of great interest to many members of the general public.

We are doing this as part of our scrutiny of proposals for new financial services regulations. I would like to start by inviting our witnesses to introduce themselves.

**Johnny Timpson:** Good afternoon, Committee. I am Johnny Timpson. I am a member of the Financial Services Consumer Panel, where I am responsible for general insurance. I co-lead on customer vulnerability and data ethics, which includes AI.



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I should also declare that I am the non-exec chairman of a military specialist insurance brokerage called Absolute Military, where I am the consumer insurance lead. In terms of pro bono roles, I am a member of the Financial Inclusion Commission, BIBA's access to insurance group, where I represent the Financial Services Consumer Panel, Bristol University's financial wellbeing of disabled people programme, and the Chartered Insurance Institute.

**Anthony Essien:** Good afternoon, Chair and Committee members. First, thank you for the invitation. My name is Tony Essien. I am the chief executive of the Leasehold Advisory Service, or LEASE. LEASE is the English and Welsh Government's free advice service for residential leaseholders, long leaseholders and park homeowners. Our fundamental aim is to advise and support leaseholders and park homeowners with issues around residential property. Clearly, residential leasehold is a very big topic at the moment, as it has been for a long time. I hope I can assist you today.

Q1 **Chair:** I have to say the Committee was keen to take evidence on this subject because we were all shocked to see that commissions as high as 62% are being paid to those who take out insurance policies, who are not necessarily those who pay the insurance policies. Can you give me your thoughts as to why it took a letter from the Secretary of State for Levelling Up, Housing and Communities for the FCA to look into this matter?

**Anthony Essien:** There is a framework to address unreasonable service charges, which includes the insurance portion of that, in our system through the First-tier Tribunal. There are remedies to get information about insurance, including commission, on the statute book. It is very much left to leaseholders to address those things and it has been for some time, since at least 1987.

As a result of what has happened more recently—there has been a spike in those commissions, as you have highlighted—it is perhaps just not practical. There are also limitations on the information leaseholders can actively use to challenge insurance, as well as the potential costs of that through our tribunal system. It does make it very difficult for them to pursue these matters.

Instead, there is a framework around the right to manage, whereby leaseholders can simply take over the management of their building. That is not just concentrating on one issue around insurance but taking over management as a whole. That has challenges too, like the challenge of getting everyone together. It is a collective right. First you have to have that collective right to make sure you can then take over functions such as insurance.

I will give you an example of a colleague of mine who has exercised the right to manage. They now control their building of 145 flats. When they took over the management of their building, they sought new insurance



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from the same insurer that had been insuring the building for decades. That insurer said no. Initially, it did not even recognise them as a building. Eventually it made an exception for them. There is a combination of issues for leaseholders: getting the information, the framework to challenge, and, once it is an individual building outside of a landlord's larger portfolio, actively having a competitive market to pursue insurance.

**Q2 Chair:** Johnny, I will ask you the same question. You are on the FCA consumer panel. Why did it take a letter from the Secretary of State for the FCA to drill down into this and launch this consultation?

**Johnny Timpson:** As someone who has worked in the insurance industry for 40 years, I am appalled that that event had to occur to initiate this discussion. For some time, we have been talking about customer value and the consumer duty. We have the senior managers regime, which requires the leaders of insurance and financial services businesses to be responsible and accountable. For some time, we have had regulation that requires financial services firms to know their target market, to know the customers they serve and to treat them fairly. Certainly in this marketplace we have had an asymmetry of information. The leaseholder has not been viewed as the end customer, which has been a major problem. There is absolutely no transparency around the level of commission or indeed the rebates and payaways that were occurring.

I welcome the proposals, albeit we are late in the day, but now we have a new focus from the regulator on customer value. We have the consumer duty, which it is implementing at the end of this month. The consumer duty will have a refocus on the responsibilities of senior managers. It emphasises improved customer understanding, transparency, improved customer service and improved customer vulnerability support.

We are in a far better place than we were, but there is no getting away from it: the level of commission we are talking about is in excess of twice the market norm for buildings insurance.

**Q3 Chair:** Was this something the consumer panel was aware of and asked the FCA to do something about before the letter from Michael Gove? Is this something that has only come to light since he wrote?

**Johnny Timpson:** It has come to come to light since the Secretary of State wrote.

**Q4 Chair:** Why was this missed for such a long time at the FCA?

**Johnny Timpson:** I have been a member of the consumer panel for two years, with responsibility for general insurance. When I first took on that role, I was a little concerned about the degree of expertise in relation to general insurance within the general insurance team at the FCA and its market awareness. It had quite a bit on its change agenda as well, because the whole issue with pre-paid funeral plans was a very prominent issue.



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Over the last two years, we have seen significant change at the FCA. We have seen the appointment of a new FCA director responsible for general insurance and a more beefed-up and market-aware general insurance team. I now meet with them regularly. To some extent, the FCA general insurance team was blindsided by this, but it now has the capability and the people to be in a far better position to deal with this matter.

**Q5 Chair:** Over a decade of its existence, the FCA was not capable and not staffed to notice egregious things like this going on under its nose.

**Johnny Timpson:** It is difficult for me to comment on what went on before I joined the panel, but certainly my take on the old team is that they were nowhere near as market-aware as the restructured general insurance team at the FCA currently is.

**Q6 Chair:** Had people got in touch with the consumer panel about their concerns? Had consumers been in touch?

**Johnny Timpson:** Not that I am aware of, no.

**Q7 Chair:** Tony, what are your thoughts on why it took the FCA to get a letter from Michael Gove before they launched this study?

**Anthony Essien:** As I said earlier, it goes around the framework that exists now and a certain amount of comfort taken that the reasonableness of those charges was something for consumers to address directly, rather than for the FCA to take up on their behalf. That is my supposition. I have to point that out.

It has proven over time that that is just not sufficient. The more recent work by the FCA, identifying the sorts of commissions that have been raised and raising some doubt about the merit and fair value behind those, means this cannot just be left to individual leaseholders any longer.

**Q8 Chair:** Is the Leasehold Advisory Service concerned about any other areas that are really disadvantaging consumers who are leaseholders that would fall within the remit of the FCA?

**Anthony Essien:** This goes back some time. The FCA and the Competition and Markets Authority, I hope, will be reminded about this. In 2014, they did some research around service charges and highlighted terrorism insurance, for example, which is a constant issue for many leaseholders when they raise insurance. Whether it is Swindon or somewhere else, even blocks of flats in comparatively quiet places seem to be bearing the cost of insurance for terrorism in London.

Many point to the fact that the terms of the lease require it, but, again, the landlords who take that on, and their brokers, are perhaps also taking an element of commission when it comes to the selling of insurance for terrorism. It strikes me as odd that you would need it for a building in Swindon, where you cannot imagine there is much in the way of a risk around terrorism, but the leaseholders end up paying for it.



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Q9 **Chair:** Johnny, do you see other areas of financial services where there are these large commissions and they have not been tackled?

**Johnny Timpson:** There are other areas of financial services where there is an issue around inflated premiums being charged to generate additional commissions. There is a live issue in the personal protection insurance marketplace. I am in discussions about this with the general insurance team at the FCA. Certain intermediary firms are requiring product providers to charge a slightly higher premium to generate a higher commission. Supposedly, there is a value exchange and some enhanced service will be delivered as a result of that increased commission.

The thing that particularly concerns me is that some of the firms that are taking these increased commissions are not giving advice. The firms that are giving advice are taking much lower commissions. As a consequence, their customers are paying a lower premium. The value exchange of enhanced services in return for increased premiums, and as a result commissions, needs some investigation.

Q10 **Chair:** In the insurance area—I know you are the specialist on the consumer panel—that would be the other area where you want to see the FCA do more.

**Johnny Timpson:** Yes.

Q11 **Chair:** Is there anything else?

**Johnny Timpson:** In fairness, that is it from a commission perspective. There are some other markets that are similar. For example, prepackaged travel insurance, where the insurance is part of bank accounts, can have pre-existing exclusion clauses for consumers who have existing health conditions. The issue there is more about transparency. The consumer needs to know their pre-existing health condition will exclude them from cover. They need to be appropriately signposted to someone who can meet that particular need. That is more an understanding issue than one of transparency.

The other issue would be in the group occupational benefits world, with the provision of occupational life and health insurance. Again, the employer is viewed as the customer, not the employee who is the person who is getting the benefit. The problem we have there is that very few of the members of these schemes are aware of the cover they have. Annual benefit statements are not produced. There is no regular communication that says, "You are a member. You have four times death in service life cover", for example.

Q12 **Chair:** Tony, has the Department brought in the necessary legislation yet? What is the timetable for that?

**Anthony Essien:** That I do not know. I understand that leaseholder reform, broadly, is planned for this session of Parliament.



**Chair:** You would be surprised if this were not in it.

**Anthony Essien:** I would be, yes.

Q13 **Mr Baron:** Following on from the Chair's questioning, it strikes a casual observer that the FCA in particular is reacting to issues, whether letters from the Secretary of State or whatever. It begs the question about what would have happened if the Secretary of State had not sent the letter.

Why does the FCA not look at the insurance sector and say, "These are all the areas where insurance premiums are paid, whether it is payment protection, terrorism or whatever", and methodically go through that list when it comes to this issue? It seems like you are reacting to events when you are looking for the FDA to be more proactive. Am I wrong?

**Johnny Timpson:** It is a very good and well-put question, Mr Baron. There are now fair value rules that require firms to show greater transparency, to be aware of their target market and target customer and to be able to capture and share that data with their own people and the regulator. With those rules in place, the regulator is in a much better position today than it was.

Certainly, the FCA has embarked on a fair value exercise, in which it is going through the market product by product. They have just done a number of general insurance products. They are starting to identify and flag concerns about those they view as not delivering value. That exercise is fairly recent. It is under way now.

Q14 **Mr Baron:** You think that fair value exercise will look at this issue across the piece when it comes to insurance premiums. Those will be encompassed in that, and it will properly address all the aspects of this.

**Johnny Timpson:** We need to give it a fair chance to be implemented because it is new, but, from what I am seeing so far, I am pretty confident. The regulator is also working with the major trade bodies in the marketplace, such as the Association of British Insurers and the British Insurance Brokers Association, to tackle issues very early on and give the market an opportunity to resolve these issues itself. That is a good step forward. We have seen some evidence of that being done.

Q15 **Mr Baron:** I have one final question on this. If the fair value review does not, in your view, do what we have just discussed and provide an opportunity to look at this in more detail, particularly the issue of commissions, will you be pressing for the FCA to do that, if you think the fair value review has fallen short?

**Johnny Timpson:** If the fair value review falls short—the consumer panel regularly meets with the general insurance team at the FCA, and I have ad hoc catch-ups with them—we will be holding a hand up and raising it with the FCA executive if I am concerned.

Q16 **Mr Baron:** Can I turn very briefly to the issue of insurance premiums



post Grenfell? I wish to address the issue of the FCA consultation proposals and whether they will address the large concerns that many leaseholders have. They have not only seen a substantial increase in their premiums post Grenfell but have not seen those premiums come down when there has been corrective building works on the building in question. That is a real concern. The Committee has had lots of submissions from people who claim that their buildings insurance has risen substantially and then not come down even when their buildings have been corrected. Tony, through the work of the Leasehold Advisory Service, are you seeing similar complaints, or is it just us getting it in the neck?

**Anthony Essien:** The truth is that in the data we receive there are not massive numbers of complaints about insurance in the context of building safety, it has to be said, or buildings with insurance issues, cladding or other defects. Where we do get these issues, it is strange that, where that work is under way and therefore the risk is being managed properly, there are still problems with it.

I do not know whether that again goes to premiums and their commissions. As I understand it, the Government are intending to address this by removing the ability to recover commissions and change this to handling fees. That is what I have understood, which of course will still have to be reasonable.

Attached to that would be the ability to make it much easier to get information, to challenge charges and, in the context of taking it to a tribunal, avoid the risk of legal costs, which has been a real pushback for many leaseholders looking to make a challenge. The indications are encouraging that this will make a difference.

Q17 **Mr Baron:** Can I push back a little bit, Tony? Some of the messages we have been getting have said that insurance premiums have doubled. I am not necessarily talking about commission; I am talking about premiums. For whatever reason, premiums have doubled in a year or they have gone up from £65,000 for a block from £14,000 over three years. Those are significant increases. I just want to know what you are doing about it or what you are trying to do about it. Are you sounding alarm bells about this? Are you saying that this is not, as far as you are concerned, an issue for you?

**Anthony Essien:** No, not at all. We are trying to prepare ourselves, as an organisation, to inform people about it and to explain to Government what we are seeing. We publish our data. It is available on our website. People can see it.

Q18 **Mr Baron:** You may publish, but are you being more proactive than that?

**Anthony Essien:** Do you mean in the context of going to Government about this?

**Mr Baron:** I mean making people aware and knocking on doors.



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**Anthony Essien:** We do provide outreach, and we are looking to do more in terms of our services going forward as well. We are reviewing those services, particularly around what customers actively need. At the moment, something like 25% more work is being done in terms of the number of enquiries we are addressing. We are actively looking to improve what we do, not just for leaseholders who have insurance or building safety issues but across our customers.

Q19 **Mr Baron:** When the building has been corrected, are you receiving many complaints, as an organisation, with regards to premiums not adjusting to that new reality, in other words coming down?

**Anthony Essien:** I would have to look into that data and come back to the Committee.

Q20 **Mr Baron:** Could you come back to the Committee on that, if you do not mind?

**Anthony Essien:** Yes.

Q21 **Mr Baron:** Very briefly, Johnny, I will come back to you, if you do not mind. In your view, will the measures in this FCA consultation bring about a reduction in the insurance premiums that have rocketed since Grenfell?

**Johnny Timpson:** I would like to think they would bring about reductions in insurance premiums. However, we are not going to see premiums return to the levels they were pre-Grenfell. The reason I say that is because of where we are currently. This is one of the reasons we have seen these increases. In insurance, we have a lack of capacity to take risk in the UK.

Currently, because of interest rates, the cost of capital has increased. Equally, the cost of the claims is more of an issue. That is about the cost of the repair, post claim. There are a number of reasons for that.

Q22 **Mr Baron:** Very briefly, when you say "capacity", are you talking about physical capacity and expertise?

**Johnny Timpson:** There are not as many insurers who are prepared to carry risk in this marketplace, because of heightened fire risk, as there were five, six or seven years ago. Certainly, more needs to be done in terms of speeding up the rectification programme for buildings.

We certainly need to look at risk-pooling or risk-sharing, maybe with some Government involvement, to create an increased capacity in the marketplace until such time as the market itself recovers. When more capacity enters the marketplace, that should hopefully encourage more competition and reduce premiums for consumers.

Q23 **Mr Baron:** Again, this is something that you, in your role within the FCA, are going to be keeping an eye on.

**Johnny Timpson:** We have to keep pushing on that, yes. I am not seeing any great level of pushback on premiums coming through to the





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consumer panel from consumer groups directly. I have certainly seen that reported to financial journalists and I am picking up the conversation with them on that issue.

**Emma Hardy:** Tony, I want to expand on your area of expertise, but if that is not okay, please do say.

**Anthony Essien:** I will try.

Q24 **Emma Hardy:** Thank you very much. I know you are an expert on leasehold, but I am seeing very similar concerns around the management of housing estates as well. There are very similar problems to the ones you have outlined around management companies.

I have had an example in my own constituency of a management company having its own solicitor draw up an agreement for the residents to sign, where the residents now feel duped over the service charges. The service charges keep increasing and there is nobody to whom they can complain about these ever-increasing service charges. They believe the service being offered is really poor. They are not getting the repairs they were promised and they have no way of responding. When I have personally got involved, the management company has given very poor responses and really poor replies to correspondence. I am trying not to name them at the moment, Chair, but I am very close to naming this company individually in Parliament. It is similar to the situation facing leaseholders, where you have these exploitative management companies. What do you believe needs to be done to stop them being able to do this?

**Anthony Essien:** As I understand it, it is essentially on its way. At the moment, we have a framework for leaseholders about the reasonableness of their costs, but there is no framework for freehold estate homeowners. They are very much seen as individuals paying an estate charge, and there is no framework to address that.

As I understand it, this is something that is coming down the line. They will replicate the requirement for reasonableness and replicate an avenue to pursue complaints about reasonableness, to have that adjudicated independently and potentially enable freehold estate owners to change management. Something is coming.

I can only assume that agents have been comfortable charging what they have because of the absence of a framework to challenge them and the absence of a right to get information around those charges to them as estate charges. That would be my sense of it, but that will change.

Q25 **Emma Hardy:** How stringent is the change you are anticipating going to be? How quickly is it going to be coming? What would you want to see in it for it to be effective?

**Anthony Essien:** The indications are that it should be something that mirrors very much the framework we have around the reasonableness of service charges, but of course there are improvements planned for that



too in terms of information, the ease of pursuing it, redress and the fact that people are not going to suffer the potential of costs being pursued against them either as individuals or collectively.

That is certainly very off-putting for leaseholders at the moment, who feel they have right on their side and have done their work and made an effort to identify what charges and costs are inappropriate. It should be more straightforward to go on to a tribunal, which is a First-tier Tribunal, but it is still legal proceedings in front of tribunal judges, et cetera. There are consequences.

Almost all the time, the representatives of the other side are legally qualified. There is a very uneven field in terms of the formal challenge. Many people do try to do it informally, of course, but there is very little pressure for people to respond to that, as you may have seen yourself.

**Q26 Emma Hardy:** Yes, definitely. Should this be something that comes under the responsibility of the FCA or should this be left more with Government or the ombudsman? Who should be responsible for this?

**Anthony Essien:** It is difficult to say, now that you are asking me out of the blue. It is a very well-framed question. Some regulators have tended to lean back and allow their markets to self-regulate. There is some danger in that because it does not tend to cover the market across the piece. Ultimately, it is a decision for Government. I daresay they will be consulting with leaseholders, freehold estate owners, the market and practitioners on the right thing to do.

**Johnny Timpson:** As I understand it, very few of those companies sit within the regulatory perimeter at the minute, which is an issue in itself. It would require Government intervention at this point.

**Q27 Emma Hardy:** Would you foresee the FCA being the best regulator for this area of the industry, or should it be another regulator?

**Johnny Timpson:** Financial services products, such as buildings insurance or contents insurance, should be regulated, yes. Other activities sit outside the regulatory perimeter.

**Q28 Emma Hardy:** Further, Johnny, you are proposing to give leaseholders more information about their policies. Given that leaseholders do not have an ability to procure their own separate insurance or reject the insurance being bought on their behalf, how will having more information help them?

**Johnny Timpson:** That is a very good point. I would reflect on what has happened in Scotland. Since the Tenements (Scotland) Act 2004, there has not been leasehold in Scotland. People in multi-occupancy buildings have to have insurance. They can opt to have their own insurance, but they have to then demonstrate to everyone else in the property that they are insured. By and large, as I understand it, most owners of property in Scotland buy in to the block policy that the factor has.



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We need to do something about the asymmetry of information. A good place to start would be empowering leaseholders and giving them information about who the insurer is, how much the insurance costs, how much the insurance cost last year and what the increase has been, what the scope of cover is, where it begins and where it ends and how you claim. That would be a really good place to start.

Equally, we should require companies to treat the leaseholder as a customer so there is a requirement to apply fair value. The distributor and manufacturer of that insurance should have to understand their customer and their target market and demonstrate that they are delivering value.

Q29 **Emma Hardy:** I understand that having greater transparency and greater information is really important, but the individual customer still has no control over the product they are being offered. They still do not have the power. This is for either of you. Would it be better for leaseholders to be able to opt out of communal insurance and say, "I do not want this communal insurance. I am going to buy my own separately because I can get a better deal"?

**Johnny Timpson:** Certainly, the learning from Scotland is that you could do that. You would have to make it compulsory for them to take out insurance and demonstrate to the other owners within that block that they have cover. It is about whether or not that ends up being cheaper, at the end of the day.

**Emma Hardy:** I suppose it is about that choice.

**Johnny Timpson:** It is, yes.

Q30 **Emma Hardy:** If you have greater transparency on the actual product you are being offered, you can then make a decision about it, as any of us can when we are purchasing insurance: "How much cover do I want? Do I want to insure additional items?" You have that choice. At the moment you are advocating for transparency, but there is no choice.

**Johnny Timpson:** I certainly have no objection to that being an outcome of this review. If consumers are taking out their own individual policies, they would clearly have to be better value than the block alternative.

**Anthony Essien:** This turns to a greater extent on mortgage lenders and their take on it. Mortgage lenders, as part of the conveyance exercise, will want to make sure those conveyancers are asking about building insurance. That is building insurance, not flat insurance. All it would take is one flat not insuring and then there being some sort of calamity. Where does that leave the rest of the building?

There is another aspect to this. Even in houses divided into just two flats, you do not typically see insurance policies for each of the flats. I am no insurance expert—Johnny will be able to talk about this—but there are dangers around double insurance. That may be a possibility, where



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nobody can claim. Johnny may be able to talk about that better, if I have not got that right.

You have to bring into this piece mortgage lenders and their take on it. If they are only comfortable with building insurance as a whole, the prospect of flat owners opting out does not seem very practical in that context.

**Q31 Emma Hardy:** How do you prevent the monopoly there is at the moment? Leaseholders are getting a poor product and not having that choice. You answered questions from the Chair about the commission and how shameful some of the commissions have been. How do you prevent that from happening? Your argument, as I understand it, is that mortgage companies might say, "No, you have to have insurance for the whole building in its entirety". How do you ensure a good deal for individual leaseholders?

**Anthony Essien:** What we are seeing on the horizon is, first of all, people being able to get much more information so they are in a better position to challenge and check the merit of policies, their cover and the premiums, and then to go back to landlords, et cetera, from an informed point of view. They will be less dependent on the little bits of information they have managed to get.

Secondly, there is also the prospect of better redress processes. If you cannot resolve it informally, you can resolve it formally without a fear of legal costs. That is quite a bit of leverage, it would appear, to change the practices. I cannot guarantee that practices will change. It may require lots of these actions and people seeing that there is no point in not responding to a well-framed challenge about the cost of insurance.

In terms of the prospect of an individual flat opting out, there will be questions around the risks associated with being in that flat as part of a wider building. You do not know the leak history of that flat over there or the status of the boilers because you are only in one flat. Particularly in bigger buildings—these buildings are built all the time in big cities like London and Manchester—the prospect of insuring an individual flat does seem difficult, though not impossible.

**Q32 Emma Hardy:** It is not the avenue you would advocate to get leaseholders better value for money.

**Anthony Essien:** I am all for what leaseholders want that they think is better. I am just highlighting to you why this, in the broader picture, seems to be a difficult thing to establish.

**Johnny Timpson:** There may be a role for the Money and Pensions Service here. The reason I say that is that financial capability in the United Kingdom, across all types of financial services, is nowhere near where we want it to be.

**Chair:** That is such a big topic that we probably do not have time to



launch into it. It is a very important topic.

**Johnny Timpson:** That is fine, Chair. How do we put leaseholders in an informed position to make informed choices? There might be a role for the insurer to provide that information, although maybe we could ask the Money and Pensions Service to provide generic information, as its counterpart in Australia does. It is called Moneysmart. The Money and Pensions Service in the UK has deprioritised insurance for the time being. There is perhaps a role for them to step up.

**Q33 Rushanara Ali:** I wanted to focus my questions on the merits of treating leaseholders as customers, but, just taking a step back and picking up on the Chair's questions, some reports suggest that overpayments by leaseholders are likely to account for well over £100 million a year. That is a big figure. The FCA's report in September showed that brokers passed on more than half of the commissions to the freeholder or the managing agent in 39% of cases.

The regulator said this could encourage freeholders and managing agents to take account of the impact on their own remuneration when selecting an insurance policy or considering switching to a different insurer. That seems like a racket to me. What do you have to say in terms of what that comes across as?

**Johnny Timpson:** I certainly agree that it creates a great deal of conflict of interest, which we need to address. The sooner we have legislation that prevents payaways to other non-regulated parties, the better, to be quite frank. Commissions should continue to be paid where the commission is transparent and where it is appropriate, in the sense that there is an ongoing service being delivered.

**Q34 Rushanara Ali:** Should there be a cap on what the commission should be? What would be an appropriate figure?

**Johnny Timpson:** Commissions should certainly be lower than they have been in some instances.

**Q35 Rushanara Ali:** They have been 62%. Should they be higher or lower than 62%?

**Johnny Timpson:** I have seen intermediaries taking commissions in the range of 16% to about 30% for buildings insurance in general in the UK and delivering a pretty good advisory service and claim support service around that. To me, that seems to be a better benchmark than where we have been on this issue.

**Anthony Essien:** A handling fee is to be preferred to the idea of commissions. That should be much more aligned to identifiable work, as distinct to a percentage of a premium. That would make it easier for leaseholders to identify and compare. The intermediaries doing this work, whether as property agents or otherwise, would be in a better position to show it. We are talking about a percentage of 65% as opposed to 33%



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for roughly the same sort of work for buildings that are similar. How do you identify the premium on the commission between the two?

**Q36 Rushanara Ali:** Can you talk me through your views on the FCA's proposal to redefine leaseholders as customers for freehold insurance contracts? Is that going to make much of a difference?

**Johnny Timpson:** It will do, yes. It opens up the ability of leaseholders to be protected by the fair value regulation that has just been introduced. They will also benefit from the customer duty regulation that is hitting the regulatory statute book at the end of this month. If the leaseholder is a vulnerable customer, they will be able to benefit from vulnerable customer support.

I will bring you back to the senior managers regime, which holds the leaders of insurance businesses, both distributors and manufacturers, to account personally and makes them responsible for what the firm does or does not do. It certainly offers them the protection of making sure senior people within firms are on the hook and accountable, should events like those we have seen occur.

**Q37 Rushanara Ali:** You have heard our dismay about the fact we are in this position, where leaseholders are being ripped off. This question is particularly for Tony Essien. Could these contracts have been drawn up more carefully, rather than waiting for the FCA to come in now and look at the relationship between leaseholders and freeholders? Could something have been done by existing institutions earlier to prevent this?

**Anthony Essien:** They have been incentivised for some time. Again, the Competition and Markets Authority did market research in 2014 looking at service charges across the piece. It also touched on insurance. It highlighted information asymmetries, among other things. There was an opportunity to address that.

**Q38 Rushanara Ali:** Should they have addressed it, or do you have a role in that?

**Anthony Essien:** Again, I go back to this question. Were they comfortable about the market self-regulating? In the past, perhaps, regulators have been more comfortable with that than direct intervention.

**Q39 Rushanara Ali:** Has there been a culture of deregulation? We have seen it in social housing, for instance, where the housing regulator faced deregulation before Grenfell. Was it part of a wider imperative to reduce regulation and deregulate? Is that why action was not taken all those years ago?

**Anthony Essien:** The short answer is that I do not know. I cannot speak to that. To the point you were making earlier about leaseholders being customers, in the atmosphere we are in, it is inevitable. Legislation has existed since 1985 that enables leaseholders, where they think an insurable risk has arisen, to give an insurer a notice of a claim. They



cannot pursue the claim, but, out of fear of the landlord not wanting to pursue a claim because it is in somebody's flat or something like that and they are indifferent, a leaseholder has the right to give notice of a possible claim. That is not too far away from where we are with the proposals for leaseholders to be considered customers.

**Q40 Rushanara Ali:** Scotland does not have leasehold as a form of property ownership. Do you know how Scotland deals with issues such as communal buildings insurance?

**Johnny Timpson:** Buildings insurance is mandatory, if you have a property within a block. Equally, you have the choice to take out your own policy or, if the factor—the property agent—is providing a block policy, you can opt to purchase that. In practice, as I understand it, the vast majority of people buy the block policy because they have the comfort of knowing that everyone in the building has insurance. If you have your own policy, you are legally required to demonstrate to everyone else in the block that you do have cover. That is the way round it. I cannot remember the name of it, but there is an entity that exists to which disputes can be taken for dispute resolution.

**Q41 Rushanara Ali:** I just have a couple of final quick questions. It is clear that there is a transparency issue. Are the proposals the FCA is making going to be adequate in providing transparency so that leaseholders can see what is going on in terms of fees, commissions or whatever it becomes, as well as what they have done in terms of competitive tendering, for instance, to see what sort of insurance quotes come through, as you would do if you were a normal customer trying to buy an insurance policy, whether it was buildings or contents? What specifics should the FCA be pushing for, beyond what it is saying, to get that transparency?

Secondly, if it is a case of £100 million at least, is there a case for penalising companies that have behaved so appallingly in terms of the freeholders that are ripping off leaseholders? I will declare an interest. I represent a constituency and a borough with some of the largest numbers of high-rise blocks with leaseholders. What is happening here is criminal. What should happen to signal those who have been involved in bad practice? I am thinking of the 1 West India Quay development. Zurich is the lead insurer there. There are a number of others in my end of the city. What should happen to ensure that these lessons are learned and freeholders do not work in tandem with others to rip off leaseholders?

**Anthony Essien:** We are in a position where it is already happening. The regulator has to intervene and take a strong grip of the market to address these things going forward.

**Q42 Rushanara Ali:** Should there be a system of fines? Should they be penalised financially for these abuses, in terms of the lack of transparency and keeping leaseholders in the dark when these decisions are made? Are the changes that are being made going to shift everything



to the point where there is transparency and these things will not happen? Will it completely iron out some of these problems?

**Anthony Essien:** There are two parts to that. First of all, if the regulator feels there is a case for that and it has the power to fine, it should do what is its obligation and what is appropriate to be done. If a fine is appropriate, yes, absolutely. I do not know whether its power extends that widely or whether it even has the intention of doing that.

Q43 **Rushanara Ali:** My final question is to do with the number of insurers. There have been reports about there being fewer insurers willing to provide insurance for high-rise blocks. This also affects the cost. I have one example where the cost of insurance went up from £60,000 in 2019 to £240,000 today. As in the case you gave, I have seen a case where taking responsibility for the freehold turned into a complete nightmare for the leaseholders. They did do it, but it becomes a full-time job for people. They had to go to extraordinary lengths, and then they found they were in a really difficult position in terms of finding insurance and being fully covered.

There are blocks of flats up and down the country in that sort of territory, where it is prohibitively expensive, there are not enough insurers or it is really difficult to navigate and ensure there is full insurance. There can be gaps, which leaves leaseholders exposed. What should the Government do to deal with those sorts of market failures? The insurance companies are clearly going to be able to do that. The regulator is not going to be able to fill that space.

**Anthony Essien:** I understood that the insurers were acting. I understood that the Association of British Insurers in December of last year were looking to develop a scheme, to be published this summer, to address those in high-rise buildings where the premiums were excessive. I do not know where that has reached, but that is what I understood was happening.

**Rushanara Ali:** We do not know. We will find out.

Q44 **Dame Angela Eagle:** Banning commission is best way forward, is it not?

**Anthony Essien:** That is the agenda: to move from commissions to handling fees. That is what I understand, yes.

Q45 **Dame Angela Eagle:** I get the impression that this entire market has been dominated by those who manage it and their favourite suppliers for a very long time, and it has been very difficult for leaseholders, who have to pay the costs, unless they have taken over the management company themselves, to have much of a say. They are just treated like cash cows. That is a fair representation of what has been going on in this market, is it not?

**Anthony Essien:** The evidence shows that that is the case, in terms of the sheer amounts of money leaseholders have been asked to pay over time.





**Q46 Dame Angela Eagle:** How can we ensure, and how can you ensure, that a shift from what has been a huge and ongoing rip-off for many years is adequately achieved in a way that gives leaseholders the proper power they should have as the customer—effectively, the people who are paying the bills?

**Anthony Essien:** These are policy decisions for Government after consultation, but, fundamentally, we need to look at the sorts of things that have been indicated so far, around having more transparency and the ability to seek redress more easily without the fear of legal cost in particular.

It is part of a wider platform of reform around easier and cheaper enfranchisement so that people can get control. Ultimately, if people can get control, they can make those decisions for themselves. In the meantime, while they do not have that control as enfranchised owners or under the right to manage, the fact that they have less risk in terms of challenge would be a big plus.

**Q47 Dame Angela Eagle:** The right to manage is all very well, but very many people who are leaseholders are busy doing other things and cannot take on that kind of responsibility. It seems to me that there are major problems with the market. The redress that is there at the moment is so hard to achieve. You have to have a majority, if not unanimity, of leaseholders to have a transfer. You then have to take on board a huge range of very complex tasks in your spare time. The redress is so drastic and has such implications for individual leaseholders that it is almost impossible for them to take up.

**Anthony Essien:** If that is made easier, if more information is available and it is more difficult for a landlord, or an agent on behalf of a landlord, to defend those very high costs, it may not require a tribunal at all. In addition, if agents, in particular, are not acting properly in the way they communicate about these things, they have to be members of a redress provider. Complaints can be made, first to the agent and then to the redress provider, for free, to address those issues. I am not talking about the amounts but the way in which they address engagement about the merits and conduct of insurance. There are things that are not in existence yet that could improve the environment.

**Johnny Timpson:** Dame Angela, I do not agree with your comment about banning commissions. The reason I say that is because we have seen what happened in the investment marketplace where commissions were banned and financial advisers charge fees. That has disenfranchised a vast swathe of consumers, who cannot afford fees. They now lack access to advice.

**Q48 Dame Angela Eagle:** Sixteen per cent. to 32% of the cost of any insurance product that is taken out on a building is what you thought was appropriate. At the moment it is as high as 62%. Sixteen per cent. to 32% is still a hell of a lot. The cost of insurance has doubled, tripled or



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quadrupled in the last few years. My inbox is full of people who live in flats, some of whom live in sheltered housing, who have had their service charges massively increased even when they are on fixed incomes. You think that 16% to 32% of the cost of that is a fair price for the commission on providing the insurance.

**Johnny Timpson:** That is for the senior managers, distributors and insurers to determine.

Q49 **Dame Angela Eagle:** Is this not a market that is more interested in attracting the people that distribute the product rather than caring about the customer who is paying for it?

**Johnny Timpson:** The intention of the senior managers regime, the consumer duty and fair value is to address that. Certainly, any commission should be appropriate to the job done, and there should be an option to take a fee. I would be loth to ban commissions completely because you might inadvertently deny a whole swathe of leaseholders access to the advice of a broker, who could help them get better value. There is a need for commissions to be reasonable and completely transparent.

Q50 **Dame Angela Eagle:** "Reasonable" is a third of the cost, according to you. You are the consumer champion.

**Johnny Timpson:** There is a good deal of work to be done. If we are talking about improving transparency and giving people more information, there is going to be more work for brokers to do.

Q51 **Dame Angela Eagle:** It is the case, is it not, that brokers are more interested in dealing with the management agents, who are more interested in dealing with the suppliers of insurance? They up the costs to the customer. The leaseholders are not even defined as the customers, by the way. They have not been defined as customers. It is not clear quite what they are, apart from being patsies who are paying for this. The focus is all on the distribution side. It is not on the side of the people who are having to pay for it. In this particular instance, that is the leaseholders. Surely, this fails as a market.

**Johnny Timpson:** I agree. The senior managers regime has failed as well. Just because you can do something does not mean you should. I would be surprised if any senior leader were not asking, "Why are we charging a commission rate double the market norm?" It is for the regulator to pursue that line of enquiry.

Q52 **Dame Angela Eagle:** They are getting away with it until somebody tells them not to. The Competition and Markets Authority has done almost nothing about it. The consumer champion, which is you, has done almost nothing about it. Everybody is looking one way or the other and saying, "No, not me, guv". Something should be done.

Meanwhile, leaseholders are paying double, treble or quadruple the price, for no obvious reason in some cases. Insurance policies have gone up in



price, whether or not you are unfortunate enough to be in a building that is cladded. The insurance policies for brick buildings have gone up where there is no cladding in sight, because general prices are going up. Leaseholders are getting stung again. What are the authorities doing to put a stop to this gigantic rip-off that is going on in full view of everybody?

**Johnny Timpson:** Given where we are now, the regulatory change in front of us should bring about a change in behaviour going forward and deliver better value to leaseholders.

Q53 **Dame Angela Eagle:** Does that mean the game is finally up after years of profiteering?

**Johnny Timpson:** I would like to think it does. Certainly, my role on the consumer panel is to hold the regulator to account in ensuring that the game is up.

Q54 **Anne Marie Morris:** Tony, you keep referring to frameworks. Can you explain to me what these frameworks are and who has responsibility for enforcing them? Do they have the power of regulation or law? Are they guidelines? What are they?

**Anthony Essien:** This is principally a legal framework that starts with the leaseholder.

Q55 **Anne Marie Morris:** Who sets the framework? Whose is it? Is it the FCA or some other body?

**Anthony Essien:** It is a mixture of common law and statute.

Q56 **Anne Marie Morris:** That makes it sound like it is not statutory.

**Anthony Essien:** I do not mean "framework" in the sense of it being a formal framework. I suppose my language means it is an informal framework. I will explain. It starts out with a lease and what it requires, which is typically that the landowner insures the building and the lessees pay for it. Where lessees want information about that insurance, there is also a statutory right to get information. That is part of the framework. This is what I call the informal framework. There are summaries of insurance and there is the right to see the policy itself and to take away copies. If people challenge the insurance, there is also a right to go to a tribunal, which will make a decision on whether or not the insurance is reasonable and therefore payable.

Taken together, that is what I call the framework, but there are problems throughout that which have been identified and it looks like they are going to be addressed.

Q57 **Anne Marie Morris:** You are not aware that there is a statutory basis for this framework. It is more like best practice. Is that really what you are saying?



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**Anthony Essien:** No, I would say there is a mixture of, first of all, contractual rights, which is the lease—

Q58 **Anne Marie Morris:** The lease is the obligation to take insurance. That does not usually have something in it about being able to see the policy and the other things about seeking redress.

**Anthony Essien:** No, it is the statute. It all comes together as part of the framework around insurance and insurance rights for leaseholders. First, there is the lease. The leaseholder generally has the right to expect the freeholder or landlord who is managing to insure the building. That is compulsory. They will be expected to do that. In exchange, typically, the lessee's obligation is to pay for it.

We then, under the Landlord and Tenant Act 1985, have a statutory framework for accessing information about that insurance, including a right to have a copy of the policy and other information associated with that. Having got that information, if leaseholders are unhappy, having engaged with their landlord or the managing agent on their behalf, and they wish to challenge it formally, they then go through a tribunal, which is very much part of our legal framework in terms of dispute resolution and/or redress.

The contract, the statutory rights and the tribunal are parts of the legal framework. All of those things are the framework when it comes to lessees and their rights over the insurance part of their service charges.

Q59 **Anne Marie Morris:** Is it the Landlord and Tenant Act that needs to be amended to deal with some of the issues we have now, or is it something new? We have been talking about what it is that the regulators should do, which is rather different, and how you might enshrine in statute what the regulators might do differently. You have this piece of legislation, which is rather different and not to do with the FCA.

**Anthony Essien:** The Government have certainly talked about more transparency. Whether or not that would be in the Landlord and Tenant Act 1985 or in some other legislation remains to be seen, but it is definitely the case that they are going to, it appears, address greater transparency. It looks like they will also address the framework for challenging it formally through the tribunal by making it an environment where there is no risk to the leaseholders in terms of legal costs.

There are going to be disputes. We have to assume that. People do not always agree. An insurance premium may, for all I know, be reasonable in the future, but a leaseholder might wish to gather together enough evidence and formally challenge it. That is their right, and they should be able to do that on the merits without the risk of legal costs.

Q60 **Anne Marie Morris:** It sounds to me like you need to amend both because the Landlord and Tenant Act contains the obligation to insure and the obligation to pay.



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**Anthony Essien:** No. It is a contractual right generally for a landlord to be required to insure a building and for the lessee to be required to pay the service charge for it. That is entirely contractual.

Q61 **Anne Marie Morris:** There is no caveat that it must be fair and reasonable.

**Anthony Essien:** Yes, not in the lease itself but in the Landlord and Tenant Act 1985. It requires service charges, which includes insurance, to be reasonably incurred and in a reasonable amount.

Q62 **Anne Marie Morris:** Is there any case law to look at what “reasonable” means? It seems to me that the insurance companies have got a bit of a cartel here.

**Anthony Essien:** It is contextual. That is part of the challenge. What may be reasonable in a block in the Docklands may be completely different from what is reasonable in a converted house of five flats in Bedford.

Q63 **Anne Marie Morris:** What you were saying, Johnny, is that there is no such equivalent framework for freehold. I share some of the problems Emma has. That clearly needs to be put in place. It sounds like we need an equivalent of the Landlord and Tenant Act, a new piece of legislation, as opposed to doing something about the FCA.

**Anthony Essien:** It may be through that legislation; it may be through something else.

Q64 **Dame Angela Eagle:** I just have one last question, Mr Essien. You are talking about redress. That is essentially why you are there: to give people advice about redress. How much money have you managed to get back to leaseholders in redress through your work?

**Anthony Essien:** We are not redress providers. We advise leaseholders about their rights and obligations.

Q65 **Dame Angela Eagle:** Do you not do any measurement about how effective you are from that point of view?

**Anthony Essien:** We certainly look at customers’ feedback around where they have secured outcomes and whether or not we have been an important part of securing those outcomes successfully. Yes, we do look at that. At this moment in time—of course, we are looking at improving the service—we do not measure money regained. We do not do casework as such. At the moment we are not taking people right the way through a dispute and holding their hand through a tribunal, for example. As part of our review of what we are doing at the moment and in the future, we are looking to improve the advice service process. That will look at whether there is anything else we can do to improve outcomes for customers.

Q66 **Dame Angela Eagle:** You do not have any assessment of how effective you have been, then.



**Anthony Essien:** We have done surveys of customers recently. We have asked them whether or not our advice and assistance has been important to the outcome they have secured. That has shown that it has been important for those who have responded and secured an outcome. In terms of the money we have saved people, I cannot give you a particular statistic for that.

Q67 **Rushanara Ali:** Do you have much influence over what freeholders do in terms of leaseholders when they are trying to buy shares of freeholds?

**Anthony Essien:** No.

Q68 **Rushanara Ali:** That is fine. As you know, there are leaseholders who have shared-ownership properties, which adds another complicated layer. Have either of you done any work in that sphere? Housing associations are usually the main conduit, but that is even more complex. Have you done any work on the experience of shared-ownership owners? They are part-owners. They are often key workers and so on. Have you done anything on that? If not, could you write to us?

**Anthony Essien:** Certainly, they are amongst our customer group. I cannot tell you that we have a particular report or a piece of research on shared owners as such, but I am aware of their challenges around paying service charges and a proportion of the market rent for their properties and their dissatisfaction with that.

**Johnny Timpson:** I do not have anything specific. With that said, the consumer panel has a focus on supporting vulnerable consumers. Given that a number of those shared ownership consumers, especially given interest rates now, are vulnerable, by definition I would expect financial services firms to regard them as that.

Q69 **Rushanara Ali:** There will be millions of people. Not all of them are vulnerable, but, because of the complexity of ownership structures, they are potentially in an even more precarious position. There is also a wider issue linked to Grenfell, fire and so on. I had multiple fires in my constituency after Grenfell. One block, One Commercial Street, had a fire last year. The building has different types of ownership structures. There is commercial, social housing, shared ownership and then private luxury flats. The managing agent did not really engage with people, in the middle of a fire, given the different structures and types of ownership. The state of play is pretty ridiculous—never mind the insurance dimension, which is also complicated.

Are you looking at the complexity of ownership structures and how that can have a bearing on insurance provision and protection? If not, are you going to look at that?

**Johnny Timpson:** On this point, no. One of the beneficial aspects of meeting the Committee today is that I now know Tony. This is a discussion we can pick up.



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Q70 **Rushanara Ali:** Did you not know him before?

**Johnny Timpson:** No.

Q71 **Rushanara Ali:** Should you not have known him?

**Johnny Timpson:** Yes, that is a fair point. I agree. We can rectify that.

**Rushanara Ali:** Does the FCA overall know you exist? It is quite worrying that you did not know each other, given the state of play.

**Chair:** Thank you to our first panel this afternoon. We rely on hearing from people like you on these issues. This Sub-Committee has an ever-open portal. I would like to ask you to commit to write to us in 2024 as to how you see progress in terms of implementation in this area. If we have not heard from you by the end of July next year, we will send out a search party. We would love to know how you have heard about the implementation of this consultation once it closes and moves on to the next phase. We have really valued your insights this afternoon in the first part of this session. Thank you very much for joining us.

### Examination of witnesses

Witnesses: Sheldon Mills and Matthew Brewis.

**Chair:** Welcome to our second panel this afternoon. Could I start by inviting our panellists to introduce themselves?

**Sheldon Mills:** I am Sheldon Mills. I am the executive director of consumers and competition at the Financial Conduct Authority.

**Matthew Brewis:** I am Matt Brewis. I am the director of insurance at the Financial Conduct Authority.

Q72 **Chair:** You heard the evidence that we have just heard. The thing that has struck me most about this consultation is that these absolutely egregious commissions that have surfaced in your market study have been going on under nose of the FCA for, presumably, the entire lifetime of your organisation. Were you also shocked by what you found out about this market?

**Sheldon Mills:** We started this investigation after correspondence from the Secretary of State, Michael Gove, for DLUHC, and we had heard, just prior to that, of complaints from leaseholders, particularly after the Grenfell crisis, about increases in their insurance. We are always aware that there are commissions in any distribution chain in relation to insurance broking. Both at the commercial level and at the retail level there are commissions, but we were surprised at the level of some of the largest commissions. There was a range between less than 10% and up to 62% and, in the middle, around 30%, but we were surprised at the size of those commissions.



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As the premia went up, because there was a contraction in supply in the market—because of the tragic events at Grenfell and then certain risk factors that flowed through the insurers in terms of the risk they felt they were taking on in insuring these high-rise buildings—we were surprised to see and were very concerned about the fact that the brokers maintained their commission levels, even as the premia went up. It was not clear to us how much extra work they needed to do as the premia went up.

**Q73 Chair:** What I am hearing is that it took a terrible tragedy and a letter from Michael Gove before the FCA jumped into action in this area. Is that a fair characterisation?

**Sheldon Mills:** It is a characterisation that I could say is fair. Yes, we could say that is a fair characterisation. I would not say that we jumped into action because of the letter. I would say that we prioritised a huge amount of harm in markets that we regulate and, as soon as we received that letter and as soon as it reached my attention, yes, we certainly responded straightaway.

**Q74 Chair:** Where are the other harms that are harming all our constituents that you have not yet jumped into action over?

**Sheldon Mills:** We only have a certain number of people and a certain amount of resource to take action against the harms that we see.

**Q75 Chair:** Are these unknown knowns, then? You know they are out there, but you just do not know where they are.

**Sheldon Mills:** In terms of our prioritisation of our work, we always horizon-scan all markets and seek to identify harm. There are multiple harms across all markets—financial services, energy, water—as I am sure you will be aware. We have lists of the harms that we wish to go after and we prioritise those as best we can.

**Q76 Chair:** You do not do energy and water, though, just for the record.

**Sheldon Mills:** We do not do energy and water, but there are multiple harms across markets that have comparable impacts or comparable approaches. If you look at debt markets, you will see similar issues across different markets, which require people to come together in order to tackle those issues. Although we do our work in financial services, this is a similar market. One of the challenges in this market is that we do not regulate a whole swathe of it. Even the proposals we have here will only achieve a certain amount of benefit for those leaseholders, which we can discuss, but it is not something I am particularly happy about. It is a fact, because we do not regulate all of it, but we prioritise our harms.

In terms of what we were doing at that time, when we got the letter, and what we deprioritised or did less on in order to do this work—because we work at capacity—we were working on business interruption insurance as part of the pandemic. Matt led on that work and can speak to that. It led to significant amounts of money to small businesses at a time of crisis.





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We were working on the general insurance pricing practices work, which led to savings or legislative changes in insurance markets, although I take the hon. Member's points in relation to the current pricing of insurance for home and motor markets. There were a range of other issues as well.

**Q77 Chair:** With the study you did of this particular market, you must also have looked at Scotland, where they have gotten rid of leaseholding. Did you see a marked difference in terms of what consumers in Scotland get as a result?

**Matthew Brewis:** There are a number of leaseholders that still exist in Scotland; it is just a much less common use of building ownership. There are some elements of this that are present in the Scottish market, but it is much more prevalent in England and Wales.

**Q78 Anne Marie Morris:** This is a big problem and, as you rightly say, Sheldon, you can deal with part of it but not the totality of it. Nonetheless, you have sight over all of it. When I ask, "What is it you need to do to fix it?" could you look at it not just in terms of the Department for Levelling Up, Housing and Communities might do with legislation or what other legislation might be required, but what other practice you, as the FCA, could put in place? That might be a new set of regulations that apply to those who you do regulate as opposed to the numbers that you do not regulate. That would be helpful.

A number of proposals for what needs to be done have been put out there, in terms of commissions replaced by fees, pricing premiums and availability of insurance. There are all sorts of things that one could look at because, in a way, one of the challenges we have is that we are in a very tight monopoly market. There are not many players in the field. Every property must be insured. Therefore, you are between a rock and a hard place. Clearly, something needs to be fixed.

Sheldon, let us start with you, given you have this competition hat on. What do we do to improve the market so that, effectively, we are not as constrained as we are and we have real choice, and the prices that are being paid, the commission and the fee structure are fair? It would seem that for leaseholders, although there is something in terms of service charges in the Landlord and Tenant Act, it is not really working. I cannot see what there is within the FCA. Over to you.

**Sheldon Mills:** I should be clear that I do not think that what is happening currently is fair to leaseholders. I am sorry if I have not made that clear. It is not fair. That is why our proposal should help. I will dip into the proposals very briefly, because they relate to the point, and then respond with some of the powers and things that might also help.

In terms of our proposals, we have found that there is a conflict of interest between the interests of the freeholder and possibly the broker, in terms of providing an insurance contract that the freeholder is not going to take all of the benefit from. The leaseholder takes the benefit.



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There is a lack of transparency, communication, information and ability to participate in those arrangements in that freeholder and broker relationship.

We have also found at the insurer level, the manufacturer level, that because of these external events, regarding both buildings regulations and crystallised risk—that is how you would describe the sad Grenfell tragedy, in these terms—there has been a different attitude to that risk and different factors have been taken into account. It is much more difficult to insure these types of risks.

On that side, there is no way that we will ever be experts or responsible for buildings regulations, and there is no way that we will ever be experts or responsible— I hope not—for managing the construction industry. It is a really important part of the picture because, at its heart, that price of buildings insurance, the risks there and the assessment of those insurers of those risks is what is driving these increased costs.

The first thing that anybody can get right is to build well, tackle those issues and make sure we have first-class buildings regulations and first-class construction in this country, including remediating all of the buildings that have been affected by cladding. I mention that because that is not going to get better in this country. That is going to get worse if we do not take action.

I am not a politician. I am just a regulator, so I will leave this bit, but climate is an important part of insurance. We see massive risks coming through in terms of climate, and they will hit homes and properties up and down the country. It might not be fire. It might be flooding. It might be other types of risks. It is really important that those regulations and that approach to construction and our property estate is continually worked on. Otherwise, we will still have these problems, because there is a cost.

If we move downstream to where we do participate, what we struggle with and what we have sought to try to find an accommodation for in our proposals is that the leaseholder is not the contractual customer. At the heart of it, the leaseholder is not the contractual customer. All of our rules are based on a financial regulated firm, which is authorised, serving a customer, not the end customer. From a competition perspective, that does not make sense. From a competition perspective, if I put my other hat on, the market and all of the distribution leads to that end customer, and that is the beneficiary.

That is from a competition perspective but, from a legal perspective, from where we sit with our rules, we stop at the customer. The freeholder is the customer under the contract. What we have sought to do is to use some of our insurance rules—they are called the Prod rules—which set out how products and services should be designed, should be thought about, et cetera, and what value people should get from them, to make



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the leaseholder the beneficiary; and other stakeholders, not just leaseholders.

We have taken the opportunity to widen this concept so that the brokers and the insurers, when they are designing those products and services and thinking about the value, have to think of the end leaseholder. We have also put information requirements in so that leaseholders—or at least the people representing them—can get information about the policy. What you do not have in that system is the same as you would have if you own your own house. If you own your own house, you are getting your own buildings insurance. You are dealing with the insurer and you are putting down your needs, et cetera.

The Scottish experience is interesting and useful to think about. The challenge we have is that in England and Wales, generally speaking, leaseholders are not active when they take on that insurer's contract and that is a bit of an issue. What we are trying to do is to put more obligations on the insurers and the brokers so that they take better care of those leaseholders, because we know they cannot always take care of themselves throughout that process because of the way the system works.

**Q79 Anne Marie Morris:** How would you enforce that?

**Sheldon Mills:** It is an important question. In terms of our policy statement, once it comes out, brokers will need to show how they justify their commissions and show the work that they do. In a sense, it is not a handling fee. It will still be a commission, but it is almost equivalent in the sense that they will need to show that working. They will need to be transparent about that through the chain. Insurers will need to look to brokers to make sure that brokers are not taking too much of a cut and they are providing value in the chain, and then brokers will need to look at their payaways, the money that they pay away to freeholders, and say to the freehold managing agent and the property managing agent, "What is the value of you?" We have tried to put our fair value framework into that distribution chain, and we hope that will bring benefits.

Where there is more that could be done is to look at whether or not you are firmer on commissions for property managing agents and freeholders or that part of the chain that we do not regulate. I know that Government have proposals on that, but that would depend on legislative time. That probably answers most of the question.

I will be transparent. If we did a big competition investigation and then referred that to the Competition and Markets Authority they could have powers, in a sense, to take more significant action around price and around bands, et cetera. We could think about those things. That is not necessary here. It is necessary to get the market functioning but, yes, we do have additional powers on the basis of what would be a big study and a lot more evidence.



**Q80 Anne Marie Morris:** When you say the Department for Levelling Up already has plans, clearly some are already set out in the consultation, but what are the plans that you think are really going to make a difference and really should be put in place? In a way, you have the issue about the quality of the building. Then you have the issue about what powers and obligations you have in terms of regulating, because they could firm up the powers and obligations that you have so that it is not just guidance; you actually have to do it. They could also have a go at amending the Landlord and Tenant Act so that, instead of it being a duty around the service charge being fair, there is something very specific about insurance and there is more of an explanation about what fairness actually means. I do not know whether, legally—

**Sheldon Mills:** I agree with you. I understand the point—sorry to interrupt. Yes, in a sense, what you want is all actors in the system to be under consistent obligations to that end beneficiary. I am not necessarily saying that our obligations are appropriate ones. There could be other ones, but if our obligation is to design the product and service to meet the needs of that end beneficiary, to ensure that there is a reasonable exchange between the cost of providing that service and the value that flows through the chain, if you had that obligation on the property managing agent or the freeholder and you had some form of regulation, regulator or somebody who could oversee that, then you might end up with a much more consistent, coherent approach.

In terms of what that would mean for Government, that would mean thinking about who might oversee that and thinking about what obligations and how, through what form of legislation, you impose those obligations on the freeholder and the property managing agent. If there is a lacuna, it is that bit.

**Matthew Brewis:** The other thing we proposed in the 2022 study that we did was the creation of an ombudsman or something prior to the First-tier Tribunal, who could look at complaints or concerns raised by leaseholders. That is not in place at the moment.

**Q81 Anne Marie Morris:** That is very helpful. It is quite a complicated issue and not just something that can be fixed by giving you powers. Making you do some of the things that you are doing on a voluntary basis, which will therefore obligate your clients to comply, would be a start, but you are almost sounding like we need a regulator for insurance more broadly. Does that mean broadening your powers or a new regulator?

**Sheldon Mills:** No. It is not for insurance. We have sufficient powers in relation to the people who manufacture and provide insurance. Often risks arise in the intermediation of products and services. The complication you have is that property managers and freeholders are the customer under the contract. They are not formally an intermediary under the contract. They are the end customer. They have an interest in the property. If you are the freeholder of the property, you own the



freehold of the property. It is a sign of the complexity of English property, but that is the case.

Property managers and freeholders do not fall within the regulated activities order as providing financial services. That could be one option. You could bring them in as financial services provision. That would be complicated, but that is one option, and/or you could have a regulator or you have regulators, which look at property and the relationship between freeholders and leaseholders and manage those relationships. We get asked to do a lot of things. We are not experts in that. There is expertise and there is a co-ordination between us and whoever is doing that work.

**Q82 Emma Hardy:** It is great to hear you talking about climate-resilient property, Sheldon. I know it is not the focus of today, but I am really pleased you made that point.

My questions are relatively quick, because you will have heard the questions I was asking the previous panel. The proposal is to give leaseholders more information and more transparency but, of course, they cannot procure their own insurance. The panel previously, in a way, felt like advocating against allowing them to procure their own insurance separately. My first question is whether you would agree that they should be part of the same buildings insurance as separate leaseholders, and how will having greater transparency help them? As Sheldon has alluded to by talking about a regulator, do we need something else?

**Matthew Brewis:** On a gross basis, if everybody insured individually, it would be more expensive. One of the areas that we did look at is whether or not it was possible for every leaseholder to become a customer in their own right. Due to the costs of ensuring all the information was up to date when people move out of rental accommodation and all of those issues, it would significantly increase bureaucracy and administration without necessarily giving any additional benefit. They would still need to be with this one master policy.

The area that we have focused on is ensuring that, where we have those policies that cover a building, the biggest benefit comes from when they are part of a pool. If you are trying to insure one building as opposed to 100 buildings together, the cost of insuring one building is significantly greater than the cost of 100 on average, because you get the economies of scale. What we have seen is that, for those buildings that are of the poorest quality or where they are owned by a single freeholder, who just owns one building, their costs are up to 30% greater than those where you have a larger company that owns multiple buildings.

This is why we recommended and support the work of the Association of British Insurers to create a pooling mechanism, effectively, to put these buildings with the biggest fire safety risks into one big pool to share that risk. That is the best way of reducing the cost.

**Q83 Emma Hardy:** I might have misunderstood. Do you mean like a Flood Re



kind of thing? Is that what you are thinking?

**Matthew Brewis:** It is bits of the same, but Flood Re is Government-backed whereas this would not be. As opposed to every insurer being concerned that they would have a total loss scenario, that a whole building would need to be replaced, if they know that they can share that cost and there is that pool across multiple insurers, they do not need to reserve as much as they would. That reduces the cost.

Q84 **Emma Hardy:** As you have said that it is not the same as the Flood Re scheme, would you advocate a type of Flood Re scheme for these more difficult, singly owned, higher-risk buildings?

**Matthew Brewis:** It is a question for Government. As I say, Flood Re and Pool Re, the terrorist reinsurance scheme, are backed by the Treasury. There are some calls from insurers and brokers for that kind of protection to be there but, at this stage, we are focused on a market solution. The pooling arrangement that the ABI and their members are working on provides a significant amount of the benefit there.

Q85 **Emma Hardy:** How does the issue around transparency help the individual leaseholder?

**Matthew Brewis:** As it stands today, there is no requirement for the freeholder to give the leaseholder a copy of the insurance policy. There is no requirement for them to know how many quotes they got, what the cost is, the breakdown of the cost—

Q86 **Emma Hardy:** There is no official procurement policy or procurement process.

**Matthew Brewis:** No. You may have a freeholder who decides to provide it, but there is no requirement for them to provide it. It makes it very difficult for leaseholders to challenge, both in the First-tier Tribunal at present or on any kind of basis, whether or not the insurance they are getting is providing them value. A requirement on brokers to provide that information to the leaseholders means that they will see how many quotes have been received, what the price differentials are between them, how much is being paid as payaways to the freeholder and how much is being taken as commission by the broker, all of which gives them an ability to challenge the cost. One would hope that, by making them a customer as well, freeholders, insurers and brokers will act more in line with the best interests of those leaseholders.

Q87 **Emma Hardy:** If, as a result of the action that you are taking around transparency, you do not see a reduction in harm for leaseholders, will you pursue different regulatory tools to achieve your objectives, or would you be recommending other action entirely?

**Matthew Brewis:** Yes, absolutely. I expect we will continue to receive correspondence from leaseholders about their concerns and about the costs that they are getting. From the work we have already done, as Sheldon has mentioned, there are some levels of commission that were



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62%. Some £80 million of the £220 million over the last three and a half years has been taken as commission and been paid away. Sometimes that is for really good reasons. It is because of fire safety—

**Emma Hardy:** You cannot give a good reason for 62%.

**Sheldon Mills:** He is not saying that.

**Matthew Brewis:** Pardon me. Some of that £80 million will be used for fire safety inspections, remedial work and other things that will reduce the overall cost, but it is not the case that all of that is documented in any reasonable way. Our report highlights where we see a lot of information not provided as to what has been done to justify that cost.

The piece of work my team will be doing once these rules are implemented is following up with those firms and asking them to show us the documentation that justifies why they have charged what they have charged. Where we see those charges that are indefensible, not in the best interests and not providing value to the end customer, we have all of our tools at our disposal, from in-depth section 166 reviews, detailed reviews of an individual firm, to full-scale enforcement action against those brokers and insurers.

Q88 **Emma Hardy:** Can I quickly ask you a question that is not actually to do with leaseholds but is to do with transparency? I have concerns around price comparison websites. They advertise different prices for products, but what they do not show, as Sheldon and Anne Marie were discussing, is the premium finance options of how much it will cost if you pay monthly rather than if you pay annually. In some ways, people are being duped into choosing what they think is lower insurance and actually, when they go through the process, it is not.

On the issue of insurance and transparency, are you able to say a little bit about how we can make sure that it is fairer?

**Matthew Brewis:** This is one of my soapboxes around premium financing.

**Emma Hardy:** Good. It is mine too.

**Matthew Brewis:** First, price comparison websites do make clear, because we have required them to, what the annual cost is and if you pay monthly. You will have some that do charge lower rates than others, but for those consumers and customers who cannot afford to pay for it in one go, an additional cost of 30%, which is the APR that many firms are charging, does not really bear any resemblance to the risk that those firms are taking. They can just stop the insurance if you do not pay.

That is an area which, under the consumer duty, when it comes into force at the end of this month, we have signalled we will be looking at very closely, to understand the cost of the financing, how this is providing value to customers and whether or not there is further action, under the



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consumer duty, that we should be taking. I am very happy to talk about that for as long as you like.

**Q89 Rushanara Ali:** Before I go on to this particular subject, I have a follow-up question from a previous session with the FCA. It is to do with Burma and I know, Sheldon, we have spoken about some of these issues. My question is regarding whether there are laws and regulations that prevent British companies from taking an ethical stance regarding their customers. Britannia P&I is an insurance club that has insured a vessel delivering aviation fuel to Myanmar. Any aviation fuel delivered to Myanmar may be seized by the Myanmar military and used for airstrikes against civilian targets such as schools. We have seen reports of that in recent months.

Britannia have written to me claiming that there are regulations and competition concerns that prevent them from excluding deliveries of aviation fuel from the insurance they provide to vessels. I wondered whether you could explain or think of any laws or regulation that would prevent Britannia from deciding not to provide insurance cover for aviation fuel deliveries to Myanmar, in order to avoid the risk of being complicit in war crimes.

**Sheldon Mills:** There are two things there. I suggest we write to you on it, but I will not duck the question. The two things that come to mind are that I do not know, first, about the issue, but I also do not know about the contract Britannia has with that state. There could potentially be contractual considerations that it is referring to, in terms of what it is supplying and what consequences there might be of refusing to meet whatever contractual obligations it has. That is not relevant to the regulator. That is between Britannia and its customer.

In terms of ethical considerations and what firms can or cannot take into account—that is why I started with the contract—it is a commercial matter how firms supply their services and who they supply them to, or not. The only possible argument on competition grounds that I can consider is if there was a pooled group of insurers and they collectively agreed not to supply for a particular reason. That could, in theory, be some sort of competition consideration.

In one sense, it is interesting. Part of the reason we do not ban commission is because we say it is up to a broker or an insurer to do a proper job and decide what commission they are going to charge on the basis of the work that they properly do. There is that commercial freedom for them that we are, in a sense, discussing here, with some obligations and duties on it. I hope that helps with the answer to that question.

**Q90 Rushanara Ali:** You are saying that there is not a law or regulation that is preventing—

**Sheldon Mills:** I would have to write to you to confirm whether that is the case or not, because I do not know anything about the issue. The





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only thing that I can think of would be contractual, and that would be a commercial matter for that firm.

**Rushanara Ali:** I am very happy to share the letter that I received with you to help inform your response.

**Sheldon Mills:** I would be happy to receive it.

Q91 **Rushanara Ali:** Turning to the subject at hand, are there reasons to believe that there are other insurance markets where the end beneficiary of the insurance is subject to harms, as we have seen in this case? It picks up on the unknowns, but can you think of any? I can think of one that is the subject of an insurance inquiry we are doing, which I will come on to.

**Matthew Brewis:** Our rules will cover those markets as well. I was trying to think about this in preparation this morning; I was talking to my team about it. Leasing of taxis, for example, is one, where a black-cab driver will lease the taxi and it will be insured.

Q92 **Rushanara Ali:** Are there any others? Could you just list them? I have two minutes.

**Matthew Brewis:** Tell me what you have.

Q93 **Rushanara Ali:** Can you think of any others? Are there any others that you want to flag to us?

**Matthew Brewis:** No, not off the top of my head.

Q94 **Rushanara Ali:** If you can think of any, do let us know. What we are digging into is whether there are these unexploded ordnance-type examples that are hitting consumers hard and they are suffering in silence. The one that is connected—we are doing an inquiry into the insurance market—is around third-party loss adjustors and others who are causing huge delay, according to the FOS information that we received as part of the evidence. I raised that with the ABI. The ABI said that that had not been raised with it. The Chair of the FCA has since or before—I am not sure of the chronology—met with the ABI.

I am quite concerned about the fact that multiple institutions being used by insurance companies are not doing what they are supposed to and the insurance company is not actually taking responsibility for those they are commissioning to take action to settle claims. That is an area where, at the moment, some of the evidence we are seeing is showing that there are issues. That is an area where we are concerned and the FCA does need to look at this. I can certainly write to you and give you examples—and the Committee can of the evidence we have already received.

**Sheldon Mills:** We have been looking at these issues. It is a slightly different point in terms of beneficiaries, so to speak. We are very concerned; Matt, I believe you have written to the CEOs to let them know about our concerns as to the impact of this inflationary environment on



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insurance costs. Insurance businesses are seeking to make profit. Our concerns are that claims are being delayed. There are some practices where the interest of the customer, in terms of settlement of the claim, is not entirely at the forefront of the activity, and then there is the use of certain loss adjustors, how many they use, how independent, how transparent—

**Q95 Rushanara Ali:** We are finding that they run down the clock. We have had evidence from one person where her house had burned down. They know they have people over a barrel and they are deliberately holding them to ransom, practically.

**Sheldon Mills:** We are looking at claims. Evidently, who we look to is the insurer. Who the insurer contracts with to do work is their responsibility, in terms of outsourcing, but we look to the insurer to ensure that whoever they are outsourcing activity to is following how they would treat a customer directly themselves.

**Q96 Rushanara Ali:** I put to you that that is not what is happening. What we need to know, and perhaps you can write to us about it, is how you are holding those insurance companies to account.

**Sheldon Mills:** I am happy to do so.

**Rushanara Ali:** We can tell you which insurers people have been complaining about. We have a number of cases where they are not holding them to account. They are passing the buck even when there are complaints, and there are lots of complaints in the FOS. It would be very helpful if you would come back to us on what the accountability mechanism is and whether it is working. I believe it is not working and customers are suffering. Hopefully, at the conclusion of the inquiry, we will be making recommendations, but it would be helpful to get action now.

**Q97 Dame Angela Eagle:** To what extent do you think these levels of commission are remotely fair? You made an assertion earlier, Mr Brewis, that some of the £80 million that they have taken in commission might have been used to do good things, but do you have any evidence for that?

**Matthew Brewis:** When we were undertaking this review, we asked to see the value assessments: "When you were paying away these £80 million worth of payaways, what was it for?" Some brokers gave us good examples of invoices, showing what they have paid. Some just put, "Services rendered, payment of X-thousand pounds". There is a vast difference in terms of the quality. That is what our report highlighted. I do not have an issue with pieces of fire safety being undertaken and paid for as part of the broker commission if people can justify what it is and why they are doing it, as opposed to the number being 30%, whether or not—

**Q98 Dame Angela Eagle:** If an insurance policy is taken out, why can the



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broker not have a price for the insurance policy, be paid a fee and have the freeholder then decide that fire safety work should be done and commission it? Why is the broker commissioning it? It does not make any sense as part of a commission.

**Matthew Brewis:** In order for the insurer to write the insurance, they want to understand the quality of the building and whether everything is up to date.

Q99 **Dame Angela Eagle:** Sure, but they do not do the repairs.

**Matthew Brewis:** This is ex ante. This is before the policy taken out. They ask all of these questions and the broker, on behalf of the freeholder, undertakes, or the broker asks the freeholder to undertake, those works to provide the reports that will give the information to the insurer, so that they can adequately risk-assess the building. The commission is for the time and labour of the broker, in order to do that, and the reports that they do. It is completely appropriate, in many cases, for there to be a level of commission, but the quality of the building and how much information is required by the insurer, or how many insurers are involved in the chain, will differ.

Sometimes, for a building that is difficult to place, the cost of the brokerage should be higher, because it has required more work to do so. One of the real benefits of the pooling mechanism that we spoke about before is that there will be a one-stop shop, for these buildings with the worst fire safety issues, where the broker is able to go. For that reason, and with our requirements around transparency, we would expect the brokerage to reduce.

Q100 **Dame Angela Eagle:** We are dealing with a market where the people who are paying are not the customer. Your model of how this market ought to be fair does not work, does it? You have decided not to make the leaseholders customers, so they cannot get access to the ombudsman to make a complaint. You do not think they are customers for that part of it, but you are then talking about the market as if they are customers. It is heads they lose and tails the freeholders win, is it not? The poor leaseholder gets nothing but the bills.

**Sheldon Mills:** We have done our best under our rules to try to adjust them so that the leaseholders are beneficiaries of a contract that they do not actually sign up to or engage in.

Q101 **Dame Angela Eagle:** But they pay for it.

**Sheldon Mills:** They pay for it. Under contract law, the fact that they pay for it does not make them the contractual customer. That is not something the FCA can change. It is something that we would need to change under the law.

Q102 **Dame Angela Eagle:** Would you like to see that happen?



**Sheldon Mills:** As a leaseholder, yes, I would personally. There are real problems in the way the property system works. It is probably a different debate.

Q103 **Dame Angela Eagle:** It is almost medieval, is it not? I would say it is medieval. That is the phrase I would use.

**Sheldon Mills:** Yes, aspects of it are, but we take the system as it stands and do our best to make the market work around it. You are correct that we have not provided access to the Financial Ombudsman Service. I am not entirely certain what value that would provide to leaseholders, because the Financial Ombudsman Service can only look at claims for the direct customer of the contract, so it would not help them.

Q104 **Dame Angela Eagle:** I am not saying that is the answer, but I am saying that the leaseholder, who pays the bill, is always falling between two stools and ends up paying the bill with very little say. If they do not pay their bills, they can get thrown out of their property or have it taken back under the law that they have to sign when they buy the property. I understand that we have to have a very radical reorganisation of the law around this, but what can be done in the meantime?

**Sheldon Mills:** The measures that we have put out are to try, for some of the riskiest policies, to get this pooling that the ABI is taking forward to work. That would bring down some of the base-level cost. We need to be tougher on the brokers. I hope we have been clear. There has been no explanation for a 62% commission. I would be surprised to see one. There needs to be a reduction in these commissions. That is clear and there needs to be proper explanation of the work that brokers are doing, because every penny counts for these vulnerable people, these leaseholders, in these situations.

We will do that activity. What we will definitely do is work with the broking community and, where we find brokers are not following these new rules, we will take action. We are serious about that. That will help. Where it does not quite help is that—

Q105 **Dame Angela Eagle:** Could you publish a list so that we can see where the really bad ones are? Can we have a little bit of transparency about your assessment of the ones that are being more nefarious than others, if I can put it that way?

**Sheldon Mills:** We will take it away. It is not the way we work, but that does not mean it should not be the way we work. On the basis of information we have, we will be monitoring the market, for sure, and monitoring the prices and what is going on in the market. It is something that we could consider.

**Matthew Brewis:** We would expect all brokers to have a process for determining how they charge commission.

Q106 **Dame Angela Eagle:** Can we have a public list of which commissions are



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being charged on which contracts?

**Matthew Brewis:** There is nothing stopping a broker publishing that information.

Q107 **Dame Angela Eagle:** I am not saying that. Brokers are not going to publish that, are they? Could you publish it?

**Sheldon Mills:** We certainly do publish certain things. We publish things on claims and various aspects.

Q108 **Dame Angela Eagle:** You presumably know who charged the 62% commission. Do you want to tell us who that was, here and now?

**Sheldon Mills:** I am not about to tell you the information that we have taken from the firms in terms of their charges in this forum.

Q109 **Dame Angela Eagle:** You know who has charged 62% commission, do you not?

**Sheldon Mills:** It is not appropriate for me to disclose that.

Q110 **Dame Angela Eagle:** Are prices secret now, then?

**Sheldon Mills:** It is for a company to display their prices and it is for a company to disclose that to their customer. It is not for the regulator.

Q111 **Dame Angela Eagle:** The customer accepted it because the customer, with all due respect, was not paying it. He or she was passing it on to the poor old leaseholders. Are prices now secret in the markets that you are overlooking? Who was the organisation that charged 62% commission?

**Sheldon Mills:** I am not able to reveal the organisation that charged 62% commission.

**Dame Angela Eagle:** So prices are secret, then.

**Sheldon Mills:** I would not say prices—

**Dame Angela Eagle:** Commissions are secret.

**Sheldon Mills:** There are issues around commission and transparency of commission and the cost.

Q112 **Dame Angela Eagle:** Do you think commissions should be secret? We know they are a dirty little secret, but should they be secret?

**Sheldon Mills:** There are two different things here. Between a customer and a broker, a customer should be entitled to know the commission that is charged. Between us, after the event, as to the wide variety of businesses and other contractual relationships that we have looked at, it is not appropriate for me to disclose in this setting individual customer relationships. Between a customer and a provider there should be transparency. A customer should be entitled to know what has made up the cost of their service.



Q113 **Dame Angela Eagle:** The leaseholders, who will have paid the 62% commission in this particular egregious case—you are not telling us who it is—will have paid 62% commission on an insurance product; they will have paid the bill and even they will not know that there is a 62% commission on the insurance product that they have had to pay. You know who it is and the Secretary of State knows who it is, but you will not tell us.

**Matthew Brewis:** Under our new rules, if they go through unchanged, the leaseholder will know. There will be that level of transparency.

Q114 **Dame Angela Eagle:** When?

**Matthew Brewis:** We will publishing it in the third quarter, so the next couple of months. Those rules should come into force soon thereafter.

Q115 **Dame Angela Eagle:** When?

**Matthew Brewis:** We consulted on the basis of a three-month implementation time, so the end of this year.

Q116 **Dame Angela Eagle:** By the end of this year commissions will be public.

**Matthew Brewis:** Yes, for the leaseholders for their specific buildings.

Q117 **Dame Angela Eagle:** What can we do to get a little bit of transparency into this market? Can the costs of insurance commissions be published, given that the leaseholders are the ones that are paying, but they are not the ones that are buying?

**Sheldon Mills:** What we can and will do is look at and monitor the market in order to see the impact of our proposals. That will not happen in December. That will happen after the event. We will go in and see a sample of commission charges and work with the broking industry to see what is coming through.

Q118 **Dame Angela Eagle:** Why do you not just publish these things? If a commission is published, that gives some transparency to the issue and there can be some public comment on it. It is more likely, therefore, to make the price of commissions more honest in the future and drive them down, is it not? Surely that has to be in the best interests of the customer—the actual customer, by which I mean, in this context, the leaseholders. They have been ripped off every which way but loose for the last few years and particularly in the last three or four. Why are you so against it? You cannot monitor every price and keep it secret.

**Sheldon Mills:** I am not against any of the proposals. I am against disclosing individual companies in this setting. I am not against considering and thinking about how much transparency there will be in this market, so that that might aid switching or aid leaseholders to understand like for like what people—

Q119 **Dame Angela Eagle:** You cannot have a switching mechanism if it is not clear where the costs are.



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**Sheldon Mills:** With respect, I was not proposing a switching mechanism. I was working with your suggestion, with respect, and trying to see the benefits of it. If people can see the various commissions across different operators, that might aid them to look for different suppliers.

Q120 **Dame Angela Eagle:** That would only aid the freeholder. It would not aid the leaseholder.

**Sheldon Mills:** We need it to aid the freeholder as well. We also need the freeholder—

Q121 **Dame Angela Eagle:** The freeholder will not necessarily care, if they can just pass the costs on to the leaseholder. The only way you can get any pressure remotely on to the freeholder who is making the decision is to have transparency about the prices to the leaseholder who is paying the costs, so that they can put pressure on the freeholder. You ought to be thinking about how, in those circumstances, the leaseholders can bring reasonable pressure to bear on the freeholder to drive the price down to a fair level.

**Sheldon Mills:** That is what our proposal does. The element that you have asked for is public transparency, which is not what our proposal does, but it does give transparency and information to the leaseholder in terms of contractual offers and contracts signed up to by the freeholder.

Q122 **Dame Angela Eagle:** That is only the one that is taken up, not any of the others that are—

**Matthew Brewis:** Our rules require them to provide any quotes that they receive and why the one that chosen was the one that was chosen.

Q123 **Dame Angela Eagle:** Maybe they will just do one.

**Matthew Brewis:** For brokers to ensure fair value and consider the leaseholder, I would not expect them to get one quote. You would not do that.

Q124 **Dame Angela Eagle:** It will be a bit like car repair insurance quotes. Unless you get more transparency into this market, it is not going to work, is it?

**Sheldon Mills:** We are doing our very best to try to make it work. We will be open to changing things if we find that it is not working.

Q125 **Rushanara Ali:** I just wanted to pick up the points that you have been discussing with Dame Angela. The description she provided about pressure from leaseholders is how I and my constituents have had to work for years. Whether it is cladding or EWS1, these are things we have had to flag, through this Committee and elsewhere. Transparency is key. What you are proposing will be helpful going forward, provided we get it right, but what you are not providing, which transparency would help, is help for those currently stuck paying these extortionate commissions that are imposed on them, i.e. the leaseholders.



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Can you think of a way in which you can be transparent with this Committee to give us a breakdown, perhaps in a private document in writing, of what the picture looks like? I cannot see why you cannot, as you are accountable to this Committee, provide that information to us, so we have a better picture of the number of companies that are operating in this way and how much commission they are making. If that has to be a confidential document, you will need to tell us why and whether there are commercial or any other sensitivities, as a result of which you are saying you cannot share it with us.

It would be helpful to understand the reason why you cannot be transparent here. If you cannot, if you have a good explanation, it would be helpful to have it in writing with some data on what companies are up to and what that looks like. The parallel is the banks with interest rates. They have been in here explaining themselves and why it is they are not passing on interest rates to savers. Perhaps there is something there preventing you from telling us, but I cannot understand why there is an issue with transparency here but there is not there and why you cannot share information with us on what the picture is.

We need to understand what the landscape looks like for those who are currently affected and work backwards to make sure, until you get this set up right, that they can apply pressure on their freeholders to get a better deal. I just wondered if I could have a response on that.

**Chair:** I was going to sum up with some similar words so fire away, Sheldon.

**Sheldon Mills:** With respect, this is a significant data request. There are a significant number of brokers in the market.

Q126 **Rushanara Ali:** How many are there? Most of them seem to have left the market. One of the issues that is coming through from news articles and reports about this is that there are not enough. My understanding is that there are literally a handful.

**Sheldon Mills:** We will respond to any questions that the Committee has. We are always available to respond to the questions of the Committee.

**Rushanara Ali:** Those are the questions we are asking.

**Sheldon Mills:** I do not have the information that you are requesting with me here today.

Q127 **Rushanara Ali:** That is fine. My question is whether you can provide it in writing, and you are saying you do not have the resources to do that.

**Sheldon Mills:** I am not saying that I do not have the resources. I am saying it is a big data request and we will be very happy to respond, if we can legally, and to provide any information—

**Rushanara Ali:** I am putting to you that it is not a big data request,





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because, from what we are being told in the evidence, there are not that many insurance companies in the market. Quite a lot of them are leaving the market, for all sorts of reasons that you will be better informed about than we are.

**Chair:** Rushanara, can I try to draw this to a final point in terms of requesting things? Rushanara put her finger on it when she described this as a bit of an unexploded bomb that we have discovered. I have noted the fact that it seemed to have gone on for quite a long time before the FCA took action. I welcome the action that you are taking, on behalf of the Committee. I speak for everyone when I say that we are pleased you are doing something in this area. You have given us an implementation date of the end of the year. That is what I heard, but we are also going to try and test the powers of this Sub-Committee in terms of asking you for this information, particularly the examples of the extremely large commissions that you observed being paid.

Parliament, through this Sub-Committee, does have the right to know what information the FCA discovered. We will test that by requesting that now. We would also encourage you, as you did this afternoon, to continue listening to what the consumer panel and the Leasehold Advisory Service are discovering so that, in future, these kinds of unexploded bombs do not remain undiscovered for as long as this one has. Is that a fair summary? Rushanara, do you want to add something to that?

**Rushanara Ali:** You very kindly agreed to write to me about my questions on Myanmar and the insurance. I will send you the letter.

**Sheldon Mills:** We will do. Thank you.

**Chair:** With that, I will declare this session over. Thank you very much.