Written evidence submitted by Mactavish

About Mactavish:

Mactavish is a leading independent outsourced buyer of insurance services and claims resolution expert acting for policyholders. Working with some of the UK's leading barristers, we have a strong record of promoting best practice and reform in the UK insurance market. Indeed, we were central to the design of the Insurance Act 2015 reform programme and were invited to negotiate an industry wide settlement and draft the amendments to the damages for late payment legislation in the Enterprise Act 2016 that were instrumental in securing that law's passage through Parliament.

Our purpose in submitting this document is to draw the Committee's awareness to the way in which the insurance industry and its regulator have responded to the current pandemic.

Submission in reference to the question 'Is the financial sector supporting businesses enough?' listed in the TSC's Terms of Reference.

Introduction:

As the Covid-19 lockdown came into effect in the UK, companies and organisations of all shapes and sizes looked to their insurance as a potential route for accessing contingent capital through claims. In many cases, the success of these claims would make the difference between a company's survival and its inability to continue as a going concern.

It very rapidly became clear that the vast majority of commercial policyholders did not have much, or any, relevant cover in place.[1] Indeed, several insurers published clarificatory statements asserting that their policies would not respond, including what many perceived to be a blunt or unsympathetic overall statement from the ABI's Huw Evans.[2] This in turn led to criticism of the insurance industry and a belief amongst many that it had failed to provide a solution for a very clear peril which has long been on the industry's radar.

In the coming months there will be a great deal of technical and legal analysis of these claims, much of which will necessarily hinge on the detail of each policy wording and the specific circumstances of each case. To expedite this process, the Financial Conduct Authority (FCA) has also launched an action in the High Court to seek a judgement on a number of Business Interruption wordings under which policies were sold.[3]

Our concern is that amid all of this debate, an essential point will be missed. For Mactavish, the primary questions that the insurance industry must answer are 1) why has the industry, which specialises in the management of risk, played such a limited role supporting businesses through the pandemic and, 2) why is there such a fundamental mismatch in the expectations of so many policyholders and so many insurers?

Put simply, how can so many buyers of insurance come to believe that they had coverage in place for the circumstance they now find themselves in, while insurers are adamant that no such cover was ever provided. Any investigation into the industry's performance that does not address this question will fail to get to the bottom of what has gone wrong and how it can be made right.

To help frame this question we have looked at the insurance industry's response from a number of angles, including policyholder attitudes to pandemic risks, the conduct of insurers, the peculiar and opaque situation of brokers who act as intermediaries serving both sides of the dispute, and the role played by the Financial Conduct Authority.

Understanding the types of insurance claim arising from Covid-19 related losses:

[1] https://www.theguardian.com/world/2020/mar/17/most-coronavirus-hit-uk-firms-not-protected-by-their-insurance-policies
[2] https://www.abi.org.uk/news/news-articles/2020/03/statement-on-business-insurance-and-coronavirus/
[3] https://www.fca.org.uk/firms/business-interruption-insurance

In broad terms, there are three types of claimants:

- **Those who believe they explicitly bought cover (under Business Interruption and other classes of insurance) with the intention of insuring losses accruing from infectious diseases such as Covid-19:** these policies and policy extensions are relatively rare, and often have low limits and sub-limits. In these instances, the insured has a right to expect a fair settlement from their insurer. If such a settlement is not forthcoming, we believe they may seek to bring legal action against both the insurer and the broker who advised them on the placement in the first place.

- **Those who may have cover that they did not explicitly request and that the insurer did not necessarily intend to include:** these policyholders are relying on defects in the insurer's wordings which may have implicitly included cover that the insurer had no intention of writing. Ultimately, these disputes will hinge on how those wordings are interpreted in court. Brokers who removed or misadvised on such cover, whether by accident or design, could also find themselves subject to legal action.

- **Those who did not intend to buy cover and were not given it:** this group encompasses the likely majority of policyholders and we would expect their claims to be denied using the usual channels.

In this paper we will explore some of the key factors affecting each of these groups and the questions that help shape our understanding of the insurance industry's response to the crisis.

Uninsured losses and fundamental principles of insurance

There are two key concepts that come into play when considering insurers' intentions and pandemic related risks.

The first is the essential point that, under contract law, insurers cannot retrospectively be held liable for uninsured losses. The majority of insurance policies (across all relevant lines) do not contain explicit cover for infectious diseases. While that may mean policyholders are not insured, it also means that they did not pay additional premiums for explicit cover in the first place. If insurers were to be made liable for losses that they have not collected premium income for, or modelled as part of their exposure – as is currently being discussed in the US – then our view is that they would be being treated unjustly, with potential legal ramifications far beyond the sector. Moreover, if policies are rewritten retrospectively then we would expect that no disease related cover would be offered in the future.

The second key concept is the idea of mutualisation. Insurance works on the principle that capital is pooled so that individual losses can be covered by the premiums paid by a broad and (ideally) diversified group of individuals and organisations. In this instance, as a result of the government's response to the crisis, almost all organisations faced losses triggered by the same event. This represents a 'concentration' of risk that no sensible insurer could ever accept. It simply isn't the case that the private insurance industry should or could provide an umbrella of protection for all of the potential risks faced by a society.

Additionally, if private companies were to carry the total liability for losses that count in full percentage points of national GDP, the cost of such cover would itself act as a brake on economic growth as the premiums would be excessive for most businesses.

However, it would be a mistake to suggest that insurance must provide either indemnification for the total economic loss or no cover whatsoever. Sensible commentators would point out that if the insurance market had provided and mutualised more varieties of explicit cover for the risks associated with pandemics (and collected the associated premium), many businesses across the UK would be in a much better position, even if they were still struggling. It is patently possible to quantify some of the losses associated with the pandemic and assign premium to an agreed policy sub-limit, even if others remain unpredictable and unknowable.

To date, the UK government has acted as insurer of last resort and is now on the hook for hundreds of billions of pounds with no clear end point for when such subsidies might stop. If the commercial insurance industry had picked up some of these costs, with defined policy limits (sub-limits) and triggers leading to calculated premiums paid by businesses as one of their high-severity risks, the burden on the taxpayer would be lower. It is simply not a case of all or nothing.

Some such cover does already exist and is most common in the events sector. Perhaps the most high-profile example of this type of cover is the claim made by the All England Lawn Tennis Club for the revenue it lost when Wimbledon was cancelled.[4] However, this type of pandemic-specific cover is relatively rare as demand for it has historically been limited.

As we have demonstrated, the insurance industry cannot now be asked to pay claims for insurance that was never provided, nor will it be able (without government intervention) to provide a total solution for losses arising from pandemics. However, the industry certainly could have played a bigger role in this crisis and we must now seek to understand why it has been so absent. For us, this boils down to two questions: firstly, why was policyholder appetite for these products so limited? And secondly, why did the insurance industry fail to create this appetite by educating its clients?

Understanding policyholder appetite

As we have noted, commercial insurance solutions for some of the losses created by infectious diseases (including but not limited to officially designated pandemic events) have been available for some time. They have been supplied on a bespoke basis for those clients who sought them by a range of insurers as extensions to other classes of insurance, and by specialist providers in the Lloyds market. As with any other peril, if insurers believe they have sufficient understanding of the risk and see a route to profitably writing it they will provide a market – limited only by the availability of capital and its relative attractiveness in comparison to other lines.

Since there is no conceptual barrier to the development of this market, it seems to us that one of the big questions that must be considered in the months ahead is why, when some cover was available, there was so little appetite for it amongst policyholders.

To help answer this question, Mactavish has investigated the extent of corporates' and business leaders' awareness of pandemics as potentially devastating economic risks. One of the areas we explored was the number of companies in the FTSE 100 who mentioned pandemic or infectious disease risk in their risk registers (as made publicly available in their annual reports). Of the 97 issued by constituents of the FTSE 100 in 2019 (calendar year), only 13 of the index's companies considered a pandemic to be a possible and material risk to their business before the inception of the current crisis.

We also reviewed the World Economic Forum's (WEF) risk survey of global business, public sector and political elites (sponsored by a leading broker and major insurer). In the 2020 report, it is striking that most of the risks deemed most likely to occur and most severe in their impact fell under the broad category of 'environmental'.[5] Indeed, the survey's respondents believed that water shortages were both more significant and more likely to cause significant problems than infectious diseases or pandemics, which barely made the report's top 10 high severity risks.[6] This has not always been the case. In 2006 the WEF survey listed pandemic as a significant risk and included an extended section on the widespread economic impact of a global outbreak.[7] This, of course, was in the aftermath of

[4] https://www.insurancetimes.co.uk/news/wimbledon-set-for-coronavirus-windfall-in-huge-pay-out-from-pandemic-insurance/1433146.article
[5] p.3, http://www3.weforum.org/docs/WEF_Global_Risk_Report_2020.pdf
[6] ibid
[7] p.4, http://www3.weforum.org/docs/WEF_Global_Risks_Report_2006.pdf

SARS, MERS and Swine flu. In fact, major flu outbreaks occur every 10 to 50 years on average, and the WHO records an average of 187 epidemics every year.[8]

Consequently, it is possible to surmise that corporate attitudes to risk are not just formed from exercises in evidence-based analysis, but also suffer heavily from proximity-bias to high-profile events which have just taken place. While Covid-19 might be an extreme manifestation of infectious disease risk, it is evidently not the case that serious outbreaks are unforeseeable.

We believe these findings cast considerable light on why so few claimants fall into our first category – the risk simply wasn't on their radar, or had fallen off it. This has hugely important ramifications for corporate governance and the stewardship of institutional investors, but it also brings the insurance industry back into the frame.

Were policyholders misled or badly advised?

The world's major insurers and brokers have positioned themselves as experts in risk at both the operational and enterprise risk management levels. And it is clear that these companies have spent extensive time and effort modelling potential pandemic-related risks.[9] It is, therefore, fair to question why they did not make more effort to publicise and impress on clients the potential risk and impact of a pandemic, or explain what coverage was available. This is particularly relevant to brokers, who often seek to play a role in helping their clients set risk strategies, rather than just managing financial transactions. Mactavish believes that the behaviour of brokers has been too often overlooked and that it may hold the key to the exam questions we set ourselves at the beginning of this paper. We will return to it in due course.

While it is true that corporate policyholders have, on the whole, not demanded cover for pandemics, it is equally true that a significant minority of businesses and organisations (those in our first group of claimants) believed they had cover for some or all of the losses caused by the pandemic and its fallout. It is here that Mactavish believes the insurance industry must be scrutinized most closely.

Coverage for pandemic related losses can be provided in a number of different classes of insurance, most obviously relating to business interruption and directors & officers liability, but also extending to construction and property owner's policies, public and employer's liability, travel and event insurance, credit insurance and many more.

Business interruption insurance is a particularly complex area and a good example of the extent of coverage uncertainty where the current mismatch in expectations makes clear that advice to policyholders was lacking. Typically, coverage for pandemic related losses in these policies is included in extensions concerning infectious diseases – albeit often with a sub-limit covering a fraction of the losses most businesses are currently facing. Despite that, those companies that did buy such extensions may find in the weeks and months ahead that they have a battle on their hands when it comes to recouping Covid-19 related losses, even within those sub-limits.[10]

Mactavish has analysed a large number of policies and found that, although Covid-19 business interruption cover does exist in some cases based on proper policy analysis, there are multiple additional barriers to a successful claim which must be analysed carefully – from requirements for physical damage, geographical proximity and the specific types of diseases included by the policy to 'wide area loss' principles impacting cover for large-scale events like the current crisis. In many cases (albeit not as many as some insurers are currently trying to argue), the policy's focus is on covering a localised outbreak of disease at a given site which causes short-term interruption, not the widespread stoppages enforced by a global pandemic response.

[8] https://www.who.int/emergencies/diseases/managing-epidemics-interactive.pdf, p.142 (influenza pandemic occurrence); p.24 (number of epidemic events).
[9] Aviva plc Annual report and accounts 2019, p.48
[10] https://www.bbc.co.uk/news/uk-wales-52399815

These barriers will not be obvious to most policyholders who, as non-specialists, are unlikely to have fully understood the nuances encapsulated in the policy. It will be particularly galling for companies in this position to find that some infectious disease wordings explicitly rule out 'new' diseases or global pandemics as opposed to localised outbreaks, but do provide cover for diseases such as cholera and bubonic plague. Further, some property damage business interruption policies have extensions based on one narrow definition of 'notifiable disease' but exclusions in other sections (e.g. 'loss of attraction' cover) based on a much wider definition of the exact same term. This is far from clear and transparent to the policyholder, or indeed to anyone who is not extremely well-versed in insurance law.

Sadly, these issues are not specific to Covid-19, they have merely been made more prominent by it. Mactavish's own research suggests that 45% of major claims are disputed, they take an average of three years to settle, and the typical settlement value is just 60% of the amount claimed for. Other than for small claims, which are cheaper to pay, disputes have become the modus operandi of the industry.

If policyholders sought coverage for epidemics or pandemics and bought extensions on that basis (our first group of claimants), then the spotlight must turn on the brokers who explained the detail of that coverage when it was purchased.

Given the highly technical nature of insurance policies and the complexity of insurance law, the vast majority of businesses look to their broker for guidance (which also brings in our second group of claimants). If the advice both groups have received can be proved to be misleading, we expect an upsurge in negligence actions taken against brokers which will go alongside the current focus on the role of insurers.

Insurance brokers – a conflicted business model:

Insurance brokers fulfil a vital role in arranging complex financial transactions. However, the number of technical and wordings experts in place at most major brokers today is a fraction of what it was a decade or two ago – unlike most industries, insurance has gone backwards technically as its products have become more commoditised.

With this in mind it is, perhaps, unsurprising that we have seen recent incidences following the pandemic in which companies believed they had essential insurance in place only to find that the broker had 'forgotten to place it' or in which the policy arranged by a broker explicitly ruled out the core activity the company in question was engaged in.

There are, however, much bigger issues at play than simple negligence. As we demonstrated in the Mactavish Broker Conflicts Report (issued on 21st May 2020), some brokers today derive as much as 78% of their revenue from insurers, with only 22% received as direct fees from policyholders.[11] As the British Insurance Brokers Association (BIBA) recently made clear in a statement in response to the report:

> "Brokers are the agent of the client as well as the insurer and one of their fundamental roles under the Insurance Distribution Directive is to act in their customer's best interests – which is exactly what they do."[12]

This is an accurate statement of the contemporary broker's role, but it is one that will come as something of a surprise to the vast majority of policyholders who believe that their broker is their agent – and their agent alone. It also raises the rather obvious question as to how a broking house always, and without exception, acts in the best interests of its customers when those interests come into conflict with each other on a daily basis.

[11] p.4, Mactavish Broker Conflicts Report

[12] https://www.insuranceage.co.uk/broker/7513266/biba-brands-mactavish-claims-opportunistic-and-says-it-wholeheartedly-disputes-them

Policyholders may quite legitimately wonder whether the fact that brokers receive the overwhelming majority of their income from insurers means that the advice they receive is influenced by that financial relationship. In our opinion they would be even more justified in questioning whether their broker is best placed to pursue a claim against an insurer on whom their livelihood depends. It is certainly the case that a law firm that was paid by both parties in a dispute would find itself subject to the attention of the Solicitor's Regulation Authority, for obvious reasons and irrespective of how such a conflict might be managed.

If, as we expect, claimants in our first and second groups believe that their broker has either failed to buy cover as instructed, not communicated the limitations of an insurer's wording, or provided claims advice that was later found to be inaccurate, we expect to see a surge in litigation against brokers themselves.

Bearing in mind the complexity of commercial insurance contracts and the obvious difficulty that non-specialists have in understanding them, it seems to us to be essential that greater transparency is brought to the broking sector. It simply cannot be right that businesses across the UK are both more dependent than ever before on their brokers and yet cannot have absolute faith that the advice they receive from those brokers is objective and aligned with their interests.

The role of the regulator:

The UK insurance industry often seems immune from the scrutiny applied to other financial and professional services sectors. In 2004 New York Attorney General Eliot Spitzer brought action against US brokers that he believed were steering their clients towards insurers with whom they had beneficial financial relationships.[13] This action ushered in a brief period in which the industry cleaned up its act.

In more recent years we have seen what looks very much like a return to the old ways of doing things, in substance if not precise form. Between 2012 and 2016 non-placement agreements between brokers and insurers grew as a percentage of broker income from 6% to 9% according to the FCA (extending to 18% in the case of the biggest brokers).[14] With pricing rising since then and being turbocharged further by Covid-19 we expect those numbers today are at least in the 15% to 20% range. In practice, this means that a substantial proportion of a broker's income is not only derived from insurers, but is derived from services provided to those insurers that are distinct (and therefore undisclosed) from policyholder placement activity. Those services are described in many ways – from the provision of data and analysis to research and development to strategy – but what is most interesting about them is the correlation between the amount of premium placed with an insurer and the amount of money the insurer 'pays' the broker for theoretically unrelated services. As the FCA put it in a 2019 report:

> "We found that, on average, insurers that sign non-placement agreements with a broker receive a larger share of that broker's business compared to insurers that have not signed an agreement with that broker."[15]

In the same report, the FCA wrote:

> "[We have] identified some areas which warrant further action, in relation to conflicts of interest (CoI), the information firms disclose to clients and certain specific contractual agreements between brokers and insurers."[16]

Nonetheless, the FCA concluded that there was insufficient evidence to establish whether such payments constituted the sort of illegal 'pay-to-play' arrangements that Attorney General Spitzer first

[13] https://www.insurancejournal.com/magazines/mag-features/2004/10/25/48447.htm
[14] https://www.fca.org.uk/publication/market-studies/ms17-2-2-annex-4.pdf (point 13)
[15] ibid (point 17)
[16] https://www.fca.org.uk/publication/market-studies/ms17-2-2.pdf (point 1.3)

brought to prominence a decade and a half ago, or whether this correlation was merely due to such broker services improving the quality of those insurers such that they won more business fairly.

2019 was not the first time in recent years that the FCA has examined the insurance broking industry. In a 2014 Thematic Review, it noted:

> "[Broker] management relied heavily on the belief that individual brokers acting as agent of the customer would always act in the best interests of those customers… [some brokers] did not appear to appreciate that this position is threatened where the individual broker's impartiality and independence could be affected by group relationships or differential remuneration structures. It was also not clear how an individual [customer] file could present a complete picture of the placement when elements of the placement decision had been taken elsewhere in the [broker] (i.e. when the facility was put in place)".[17]

Despite all of this, the FCA closed down its 2019 Study at an early phase, saying:

> "We have not found evidence of significant levels of harm to competition that merit the introduction of intrusive remedies. As a consequence, we are closing our market study and this is, therefore, not an interim report but our final report"[18]

Naturally, this pleased BIBA whose CEO said:

> "The fact that the FCA closed this assessment at an unprecedented early stage is a welcome step and validates our view that the wholesale insurance market is a highly competitive place. It is also welcome that the FCA intends to deal with any follow up matters on a business as usual supervisory-led basis."[19]

Beyond its statements about being able to police conflicts within its existing rules, we cannot comment on what caused the FCA to close its study at an 'unprecedented early stage' but it certainly seems as if it missed a golden opportunity to address some of the structural problems in the industry before it was tested in the current crisis – whether this was done under existing rules or not. Had it done so, many businesses across the country might be experiencing fairer insurance settlements than they are today.

We have written to the FCA separately to encourage them to enquire into the role played by brokers in the ongoing claims disputes arising from Covid-19. The current action, which considers business interruption wordings, is laudable, but does not consider the manner in which those policies were sold. We also raised the issue of potential conflicts of interest with their legal advisers, Herbert Smith Freehills (HSF).[20] Mactavish understands that HSF works with brokers in the UK market and we queried whether they are best placed to provide impartial advice – not least because several wordings involved in the test cases were drafted by a broker with whom HSF has published co-branded marketing material.[21]

All in it together – what should the insurance industry do next?

As we have stated, we do not think it is reasonable for insurers to be made liable for losses they did not insure and that clients did not seek coverage for. However, it would be disappointing if, unlike many other sectors, insurers and brokers did not consider their broader social responsibilities at a time of global crisis.

In the first instance, we believe that insurers who have provided cover for pandemic losses – either intentionally, as with our first group of claimants, or unintentionally, as with some members of our second group – should promptly move to settle those claims.

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[17] p.10, https://www.fca.org.uk/publication/thematic-reviews/tr14-09.pdf
[18] https://www.fca.org.uk/publications/market-studies/ms17-2-wholesale-insurance-broker-market-study
[19] https://www.biba.org.uk/press-releases/biba-applauds-decisive-report-by-the-fca-following-its-wholesale-insurance-brokers-market-study/
[20] https://www.thetimes.co.uk/article/clash-of-interests-at-herbert-smith-freehills-law-firm-advising-fca-review-of-business-interruption-insurance-fcqh02qdm
[21] https://www.marsh.com/uk/insights/research/covid-19-immediate-considerations-insurance-arrangements.html

Secondly, they should carefully consider how they behave in the months ahead. As many industry-watchers will already know, insurance prices across many classes were already increasing rapidly in the second half of 2019. In the period immediately prior to the widespread emergence of Covid-19, Mactavish had witnessed premium increases of more than 100% on some client policies. Our fear now is that insurers who are nursing serious losses in their reserves, as a result of the broad macro-economic fall-out and reduced investment income, may withdraw capacity – leading to a further increase in the cost of cover and an erosion in the quality of such cover as is available. In addition, we also believe that insurers will take a much tougher stance on claims (whether they are related to coronavirus or not) in order to preserve their remaining reserves.

If insurers take this approach, they will be adding to the colossal burden already faced by companies and organisations across the UK. It was for this reason that Mactavish welcomed the recent intervention from the Prudential Regulation Authority which warned insurers against dividend payments.[22] In our view, an industry that puts the short-term interests of its investors and senior leaders ahead of those of its clients would be deserving of criticism.

Insurers have already suffered significant reputational damage as a result of their response to Covid-19 and the choices they make now will determine the way in which they are perceived for many years to come. Ultimately, the choice is straightforward, they can pay the advertising and marketing costs associated with rebuilding their brands or they can use their balance sheets to support their business customers through a period of crisis.

In making this decision we would recommend that they consider the responses of British insurers to the 1906 San Francisco earthquake. In the face of devastating losses and armed with ambiguous policy wordings, British insurers agreed to “pay all of our policyholders in full, irrespective of the terms of their policies” and thereby paid out the staggering sum of $235m – equivalent to the previous 47 years of profits made on US business.[23] In time, those insurers were repaid by the increased confidence inspired by their actions, giving British insurers a major role in the US market when so many other overseas firms failed to establish themselves.

In conclusion

Commercial insurance has largely been absent from the response to Covid-19. This is something that the industry should think very hard about in the years ahead. Commercial insurance is not the only route to risk management and transfer and it would be a mistake to think that policyholders are beholden to our industry in perpetuity.

Whether or not corporates were willing to buy pandemic related insurance is a key question that cuts to the heart of our understanding and quantification of risk across the economy, but it is certainly the case that those who work in this field day-in-day-out did little to educate their clients about these risks or to structure and explain products that would have provided – and priced for – more significant protection or where ostensibly similar policy extensions fell short. That is a consideration that should be top of mind for any broker or insurer who seeks to market themselves as a master of strategic risk management.

Beyond this, those policyholders who believed that they were insured for infectious diseases only to find that, deep in the small print of their wordings, insurers had included clauses that carved-out large swathes of cover, will be bitterly disappointed. This will affect the reputation of our industry for years to come and will impact both the insurers who sold the policies and the brokers who recommended them.

Those brokers now find themselves at a crossroads. They can continue in their role as the British Insurance Brokers Association recently explained it (acting as agents for both insurers and insureds) or they can choose to focus on the needs and interests of the policyholders on whom their businesses

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[22] https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/letter/2020/letter-from-sam-woods-to-insurers-distribution-of-profits.pdf?la=en&hash=C1FF7D6C560E1C377CC35C1513E27F16646A1B70
[23] https://www.thetimes.co.uk/article/hiscox-may-be-right-not-to-pay-for-covid-19-but-it-will-cost-it-dear-long-term-pvk5wb3wn

depend, and sell the true value of those services. If they take the first route clients will lose even more faith in their advice and come to see them as merely the distributors of insurers' products.

Ultimately, brokers are unlikely to make that change without regulatory prompting and so we call on the FCA to consider the appropriateness of the current situation in which too many policyholders cannot access impartial advice on a matter of crucial importance to their businesses. Mactavish believes that brokers should be split into client advisory, placement and insurer services (should insurers still wish to buy those services) to remove, once and for all, any potential for conflicts of interest.

To help bring clarity to this complex picture and to promote the long-term attitude that the industry so badly lacks we encourage the committee to seek answers to the following questions:

- Why was pandemic risk so badly underestimated by British companies and their boards (including financial services companies and advisors of all types)?
- Are insurance contracts fit for purpose or have they been allowed to become both too standardized and too opaque, making claims disputes inevitable?
- Were policyholders mis-sold products by either their insurers or brokers?
- What is the role of the broker? Are they merely carrying out a financial transaction or are they true agents of policyholders with a fiduciary duty to offer impartial guidance?
- Are broker standards of professionalism sufficient for the role clients believe they carry out?
- Do the structural problems in brokers' business models inhibit them from acting in the policyholder's interests?
- Has the FCA fulfilled its role in regulating and overseeing the industry?

A lot now hinges on how the insurance industry responds. On the one hand it can attempt to support the real economy by seeking to settle legitimate claims promptly and ceasing the endless erosion of the quality and extent of coverage, or it can put its own short-term interests first. This will be an existential choice.

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