

FCA launches consultation on broker remuneration for multi-occupancy buildings insurance

19 December 2024  Joanna Wallens

The government is concerned that leaseholders are being charged significant insurance costs whilst having little influence or ability to scrutinise these costs, or to challenge those costs if they are unreasonable.

This could include disproportionate remuneration for services in the arranging and managing of insurance.

As a result, this month the FCA has opened a consultation: '[Permitted insurance fees for landlords, freeholders and property managing agents](#)'.

Key concerns

The government's key concerns are:

1. That the insurance supply chain could incentivise freeholders and property managing agents to select insurance brokers who secure a product that is not the best option for the leaseholder, but which offers the highest commission return to the freeholder or managing agent. Leaseholders usually pay for the entirety of these premiums, including any commissions shared between brokers and property managing agents or freeholders; and
2. The lack of remuneration transparency gives rise to a significant barrier for leaseholders to identify whether they are paying inflated premiums or paying for excessive remuneration of managing agents or freeholders. The FCA wants to address this barrier because, without the relevant information, leaseholders are not well placed to understand what they are paying for and, if necessary, whether to challenge the reasonableness of these costs.

Background

In September 2022 the [FCA published a report](#) which confirmed that the sharing of remuneration by brokers with freeholders and property managing agents was widespread. In 39% of cases, brokers passed on more than half their remuneration to the freeholder or property managing agent. Brokers contributing to the report attempted to justify this on the basis that this was payment for services given in areas such as procurement and post-sales services provided. However, average total commission earned by freeholders and property managing agents increased from £880 in 2016 to £1,140 in 2021 – a 30% increase. The report found no clear justification for this increase.

The [FCA published a further report](#) in April 2023. This report found that absolute levels of remuneration (including commissions) had risen by nearly 40% between 2019 and 2022, driven in part by increases in premiums. Brokers were often unable to articulate what insurance-related services or benefits of value were provided by the freeholders and property managing agents they were sharing commission with.

In January 2024 the FCA confirmed reforms to strengthen leaseholder protections and transparency. The updates required insurance firms to:

1. act in leaseholders' best interests;
2. treat leaseholders as customers when designing products; and

3. disclose policy information to their customer (usually the freeholder or property managing agent) and request this information is passed to leaseholders by the customer. In addition, leaseholders were given a right to request policy information directly from insurance firms if this does not happen.

Insurance firms were also banned from recommending an insurance policy based on commission or remuneration levels.

The Leasehold and Freehold Reform Act 2024 (the 'LFRA 2024') received Royal Assent on 24 May 2024. Most of its provisions will be brought into force by regulations.

The LFRA 2024 contains measures to ban the payments made to freeholders and property managing agents being charged to leaseholders altogether. Instead, they would only be able to charge a fair and transparent fee directly to the leaseholder, to be set out in secondary legislation as a permitted insurance fee. This is to ensure that remuneration would not be directly linked to premiums, and that freeholders and property managing agents would no longer be incentivised to select insurance brokers on the basis of commission arrangements. There are also provisions to ensure that freeholders and property managing agents provide more detailed insurance policy information to leaseholders.

The consultation

The consultation's objective is to ensure that any costs in relation to the management and arranging of insurance charged to leaseholders by landlords, freeholders or property managing agents, are fair and transparent.

The specific focus of the consultation is Section 59 (Limitation on the ability of the landlord to charge insurance costs) of the LFRA Act 2024, which will exclude a range of insurance costs for the managing and arranging of insurance, including remuneration for work done in relation to a contract of insurance and insurance generally. Instead, secondary legislation will set out clearly what costs are allowed through a permitted insurance fee.

This consultation will last for 12 weeks from 2 December 2024 to 24 February 2025. Information on how to make submissions can be found at the following link:

[Permitted insurance fees consultation](#) 

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