

Ministry of Housing, Communities and Local Government Consultation

Permitted insurance fees for landlords, freeholders and property managing agents

Response from Propertymark

February 2025

Background

1. Propertymark is the UK's leading professional body of property agents, with over 18,500 members representing over 12,500 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Consultation – overview

2. In 2024, the Leasehold and Freehold Reform Act was passed. This gave powers to the Ministry of Housing, Communities and Local Government (MHCLG) the ability to set new regulations, with the aim of providing more powers and protections for leaseholders. One of the areas that MHCLG is looking to address is the balance of power between leaseholders and freeholders when purchasing insurance. It has been argued by MHCLG that, due to the decision ultimately lying with freeholders, that the insurance provided to leaseholders can often be unreasonable. This is because it may include additional costs and commissions which leaseholders would not be interested in.
3. The basis for this claim is largely due to recent increases in insurance premiums. Since the Grenfell Tower fire, it has been reported that insurance premiums for residential leaseholders have increased by 125% between 2016 to 2021, which has led to MHCLG prioritising reforms to help reduce costs for leaseholders. While steps have been taken by the Financial Conduct Authority to reduce escalating insurance premiums, MHCLG believes more need to be done to lower costs for leaseholders.
4. In order to reduce costs for leaseholders, MHCLG is exploring excluding insurance costs related to the arranging and managing of insurance to be charged to leaseholders. If enacted, only permitted insurance fees will be able to be charged, which would be directly charged to the leaseholder. This, it is argued, will improve transparency, prevent commission sharing by brokers and prevent payments from being hidden as part of wider insurance costs.

Propertymark response – summary

5. Propertymark welcomes the opportunity to respond to MHCLG’s consultation on permitted insurance fees for landlords, freeholders and property managing agents. We agree with the assessment that insurance premiums have increased considerably since 2016, with the experience of our members and industry partners suggesting that insurance premiums have continued to increase further since 2021. Due to the rising premiums, leaseholders are facing higher costs. It is therefore essential that leaseholders are informed of how payments are calculated and how property managers are compensated before any insurance product is decided. This prevents cases where leaseholders are over-charged and encourages leaseholders to raise concerns to ensure costs reflect the service that is provided.

6. However, it is vital that the cause of rising insurance premiums is addressed, which we do not think is primarily, at least not in the majority of cases, due to the fees or commission that property managers are charging and receiving. In our experience, rising insurance costs are due to factors outside of the control of managing agents. We therefore take this opportunity to raise the importance of resolving building safety issues as a more effective way of reducing insurance premiums for leaseholders. This would be welcome by the industry as a whole, as well as leaseholders.

7. Considering this, Propertymark’s position can be summarised by the following three statements:
 - **Focus on transparency and the ability for leaseholders to raise concerns** – while we understand the reasons for limiting how costs can be recovered by managing agents, limiting how managing agents can recover their costs may make it more difficult to acquire the right insurance for the property or raise costs in other ways for leaseholders. It is therefore essential to focus on transparency, so leaseholders can see what they will be charged and can more easily challenge any fee they consider unreasonable.

 - **Establish clear requirements for any commission and fee charged to leaseholders to be communicated before any decision is made on insurance** – regardless of how property managers are compensated or how fees are charged to leaseholders, property managers should be required to demonstrate their commission and payments from leaseholders before a decision has been made. This will prevent instances where commission and fees are hidden

in leases and not clearly demonstrated to leaseholders. This will also help leaseholders to understand why they are being charged; what the charge would pay for and enable them to refuse options suggested by property managers if they disagree with the insurance proposal.

- **To reduce insurance premiums, MHCLG must address building safety issues** – in recent years, fewer insurance firms have been willing to insure flats as they believe the risk is too great. The few that remain can freely raise premiums, partly due to the increased risk and partly due to the lack of supply of insurance providers. There are three solutions to this: accelerate remediation, legislate for the replacement of all building safety defects (not just those which are life-threatening), and restore confidence to the insurance sector so that more firms will insure flats.

Our response is based on our engagement with Propertymark members and other professional representative bodies.

Questions

Question 1: To what extent do you recognise the above description of how freeholders, property managing agents, brokers and insurers manage and arrange insurance and how they are remunerated for it? For example – what other intermediaries are involved in the supply chain of building insurance for multi-occupancy buildings, how are they remunerated and what for?

8. In this consultation, MHCLG describes current practices in the following way:

“Payments for activities relating to the arranging and managing of buildings insurance in multi-occupancy buildings can come in a range of formats, most commonly from insurance brokers to freeholders or property managing agents. Payments in this context could include:

- Payments made to provide an incentive to enter into contracts of insurance;
- Payments as remuneration for work done in relation to insurance, either as part of a specific insurance contract or more broadly. This is often in the form of commissions that are shared by insurance brokers.

More broadly, payments could also be made in a broader sense through not passing on benefits or discounts. For example, a freeholder could retain the money from a loyalty discount that they do not pass on to leaseholders.”

9. Propertymark disagrees with this broad assessment of how managing agents are paid in relation to securing insurance. There is a substantial range of payment models across the industry, with arrangements almost unique to each building. This needs to be understood before introducing broad restrictions on how managing agents are compensated for arranging insurance, as a one-size-fits all approach may negatively impact practices that benefit leaseholders and may not address the fundamental causes of rising insurance premiums.

10. In our experience, managing agents do not always charge leaseholders for arranging insurance payments. Some are paid commission by the insurance provider, which is factored into insurance costs, but steps are already being taken by the Financial Conduct Authority to limit the amount of commission that managing agents can receive¹. Professional membership bodies also set high standards for their members, which can include proportionate charges and the need to justify costs to leaseholders. In cases where managing agents receive commission from their chosen insurance provider, this has been used to help cover the operating costs of managing the block rather than explicitly for the cost of arranging insurance. However, as stated previously, arrangements are unique to each building. There are even instances where the managing agent does not receive any commission nor makes the decision on which coverage to purchase, as they are asked directly to appoint a broker from a specific insurer. Where leaseholders are charged, cases include charging leaseholders directly for insurance costs or including insurance as part of the variable service charge.

Question 2: Either from your personal experience, or knowledge of practices more widely, to what extent do you think the current system of remuneration for property managing agents and freeholders for their activities managing and arranging insurance provides fair outcomes for both leaseholders and those supplying these services? Do you have examples or case studies to illustrate?

11. The fairness of the current system depends on the actions taken by the managing agent. Often, larger managing agents will have procurement departments to explore multiple options from different insurance firms and decide which firm has the best offer. Those who do not have departments dedicated to this will still take the time to review multiple insurance offers. The decision on which insurance provider to go for is based on value for money against the quality of the cover. Managing agents understand the benefits of providing a balance between cost for

¹ [FCA sets out multi-occupancy leasehold insurance reforms | FCA](#)

leaseholders and what the insurance they choose covers. The removal of this service could potentially lead to managing agents having less time or resources to dedicate to reviewing insurance providers, leading to poorer quality or more expensive coverage for leaseholders.

12. We however acknowledge that there may be managing agents who could accept larger commission or charge leaseholders an arrangement fee which they do not disclose to leaseholders. However, there are current systems in existing legislation that, if sufficiently enforced, could resolve these issues with a minor extension of current regulations. In Section 20 of the Landlord and Tenant Act 1985² landlords are required to consult with leaseholders for any works or qualifying long-term agreements if costs for any one leaseholder will exceed £250 for works or £100 for agreements. We propose that this, or a similar system could be introduced for arranging insurance coverage, making it explicit that insurance contracts should also quality for consultation if costs for one leaseholder would exceed £100. This consultation period would include details on costs (including commissions) and coverage from each insurance provider and enable leaseholders to nominate an alternative provider or their preferred out of the providers chosen by the managing agent. Through this, leaseholders can see which provider was chosen and the reasons for doing so, as well as any associated cost arrangements. We would also recommend that MHCLG introduce grounds for leaseholders to legally challenge the managing agent for reasons set by MHCLG. This could include if an inferior provider was chosen due to the managing agent or landlord receiving a larger commission, or other conflict of interest such as a director of the insurance provider being related to the freeholder.

13. We do however acknowledge that there will be leaseholders who hide their fees, including commission payments, and are not accountable to leaseholders. In order to address this, we urge MHCLG to focus on new requirements that would improve transparency and enable leaseholders to challenge unreasonable fees/commission payments. This would enable managing agents to operate in a way that best suits their working conditions while providing the transparency that the consultation proposals are aiming to achieve.

14. ***Questions 3 and 4 omitted as they are addressed to leaseholders.***

Question 5: If you are a property managing agent or freeholder, what type of payments – if any – have you received for arranging and managing insurance? Payments could take the form of direct

² [Landlord and Tenant Act 1985](#)

remuneration – such as the sharing of commission – or be more indirect such as through retaining money from discounts or non-monetary payments.

15. As stated previously, the type of payments and arrangements vary widely across the industry.

Question 6: If you are a property managing or freeholder, for which activities have you been remunerated for through payments – such as commission by the broker? Of these, which of these are regulated activities as defined in the Financial Services and Market Act, such as through the FCA or the RICS Designated Professional Body scheme, and which are not?

16. As stated previously, payments can be used to fund wider operating costs, or just for the cost of arranging insurance but this varies across the industry.

Question 7: A permitted insurance fee would be defined to only allow remuneration for specific activities being provided by freeholders and property managing agents, and prevent leaseholders being charged for any other payments to freeholders and property managing agents relating to the managing and arranging of insurance. Do you agree with this approach? Please explain your answer.

17. Based on our understanding of the proposals and The Leasehold and Freehold Reform Act 2024, the following changes would be introduced:

- Managing agents will no longer be able to charge for arranging or managing insurance contracts.
- Managing agents will no longer be able to accept commission from insurance brokers
- Managing agents will only be able to charge a separate fee for their services directly to leaseholders.

18. We do not agree with this approach for three reasons. Firstly, this is an ineffective approach to reduce insurance costs for leaseholders. In the experience of Propertymark members, insurance costs have risen due to the risk profiles of buildings increasing. This is due to outstanding building safety issues but also some Propertymark members have reported the quality of new buildings has decreased, leading to a higher frequency of building issues and insurance payments which increases premiums. Secondly, preventing managing agents from doing this could risk leaseholders being charged higher payments, as the cost of arranging insurance in larger blocks could be larger

than the commission managing agents receive. Introducing consultation requires to ensure transparency of commission would improve transparency without increasing costs to leaseholders. Thirdly, insurance costs are unlikely to change unless remediation is expanded to a wider range of building safety defects. It's important to remember that insurance providers insure the building, rather than the people in it. Currently, remediation of building safety defects only applies to "life-critical" defects, rather than defects that would lead to damage to the building. This means that, while remediation will save lives, it does not guarantee that there will be fewer fires in high-risk buildings, which will mean insurance fees will remain high. In order to reduce insurance fees, you need to reduce the risk that insurance providers take when they insure a high-risk building. This can only be achieved by reducing the chances that insurance providers will have to cover damage to the building. Therefore, MHCLG will need to expand remediation requirements for these buildings.

Question 8: What specific activities relating to the management and arranging of insurance do freeholders and property managing agents currently carry out and are remunerated for? Please define these activities as fully as possible.

19. As stated previously, this varies widely across the industry.

Question 9: What specific activities relating to the management and arranging of insurance should freeholders and property managing agents be permitted to carry out and be remunerated for through a leaseholder's service charge?

20. As stated previously, this should depend on the individual requirements of the property manager and leaseholders. As long as any fee is shared and agreed with leaseholders beforehand, we do not see a reason to limit the fees that property managing agents should be permitted to carry out. Ensuring transparency and providing the ability to challenge unreasonable fees should be the goal of any new regulations.

Question 10: Are there any specific activities relating to the management and arranging of insurance that freeholders and property managing agents should not be permitted to carry out and be remunerated for through a leaseholder's service charge?

21. Our answer to question 9 sufficiently covers our response to this question.

Question 11: Do you think the permitted fee should be calculated in prescribed ways – such as specific percentages, maximum charges and / or fixed fees for the arranging and managing of insurance or activities therein – or that a transparent fee subject to the reasonableness measures in the Landlord and Tenant Act 1985 would be sufficient?

22. We think that a transparent fee subject to the reasonableness measures in the Landlord and Tenant Act 1985 would be sufficient. This enables the charge to reflect the individual circumstances of the insurance coverage and arrangement between the broker, leaseholders and management agent. A fixed fee would not be able to reflect all arrangements.

Question 12: Are there any exceptional cases or circumstances you would suggest merit different treatment with regards to what is permitted or not permitted?

23. We do not think there should be any fees that are not permitted outright. All fees should be judged on an individual basis based on their reasonableness, with leaseholders able to challenge the fee with the managing agent, freeholder and courts if necessary.

Question 13: Do you consider that the existing framework for challenging unreasonable service charges – such as the Landlord and Tenant Act 1985 – is sufficient to ensure that if freeholders or property managing agents charge excluded insurance costs to leaseholders, that they could be challenged and that any permitted insurance fees would be proportionate? Please give your reasons.

24. Yes, we do consider the Landlord and Tenant Act 1985, when effectively enforced, is sufficient to enable leaseholders to challenge any insurance fee. The flexibility of the Act enables managing agents to arrange a fee system that works for leaseholders, brokers and the freeholder while providing sufficient opportunity for leaseholders to challenge fees. In order to ensure freeholders and managing agents fulfil their requirements under the Landlord and Tenant Act 1985, consumer awareness of their responsibilities must be increased, with stricter repercussions for freeholders and agents who fail to carry out consultations on insurance arrangements and service charges.

Question 14: Do you think a permitted insurance fee – however calculated – should be subject to additional criteria to ensure it is proportionate and fair, or that the “reasonableness test” set out in the Landlord and Tenant Act 1985 would be sufficient?

25. We are unaware of any additional criteria (aside from those included in question 15) that would be required to ensure insurance payments or additional service charges are proportionate and fair.

Question 15: If additional criteria were included in the definition of permitted fees to ensure fair and proportionate remuneration for activities by freeholders and property managing agents, what criteria do you think would be most effective and how could they be calculated?

- That the price of permitted fees for services paid by the leaseholder should provide fair value to leaseholders
- That the price of permitted fees for services paid by the leaseholder should have a reasonable relationship to the benefits provided, considering the costs incurred in providing it
- That any conflict of interest with related parties in the insurance supply chain, such as the broker, can be shown to have been considered
- Other (please set out alternate / additional criteria)

26. We have no issues if the criteria included in Question 15 is introduced as additional criteria in the definition of permitted fees. When calculating fairness, we would recommend that leaseholders should be provided access to all options available to them, to enable the leaseholders to make the case that an alternative option would have been fairer.

Question 16: If additional criteria referred to above were applied to permitted fees to ensure fair and proportionate remuneration for activities by freeholders and property managing agents, what evidence should be required to prove this? What costs or challenges would there be in gathering and providing that evidence? Which are singular implementation costs and which would be recurring?

27. We would recommend seeking the opinion of judges and the First-Tier Tribunal who would be making judgements based on the information and evidence provided.

Question 17: What implementation changes, challenges and/ or costs do you anticipate landlords, freeholders and property managing agents will face in moving from existing remuneration practices for the managing and arranging of insurance – such as commission sharing – to a new permitted fee structure charged directly to leaseholders?

28. The main challenge will be to completely review and adjust operating systems that property managers have been using for years. A change in the way they recover costs of arranging and managing insurance will necessitate them setting different charges for other services. This would impact the quality of their services or increase the service charge, which would impact leaseholders.

Question 18: Do you anticipate that a permitted insurance fee to remunerate property managing agents and freeholders will lead to higher or lower insurance costs for leaseholders?

29. Aside from our response to question 17, there are cases where a permitted fee structure charged directly to leaseholders could increase costs to leaseholders. Larger estates especially, which require considerable time to assess the best insurance provider. While fewer insurance brokers will provide insurance on a block of flats, there are some cases where two policies will be required to cover the block in full. This takes considerable time and may result in a higher service charge for leaseholders, even if it accurately reflects the time and costs for managing agents.

Question 19: What impact will the removal of the ability to share commission with freeholders and property managing agents have on overall commissions received by brokers?

30. This is outside of Propertymark's area of expertise.

Question 20: What impact will the removal of commission sharing have on insurance premiums more widely?

31. For the reasons stated earlier in our response, we are concerned that the removal of commission sharing will have a marginal impact on insurance premiums more widely. This is because of two reasons. Firstly, the number of insurance providers that cover leaseholders is relatively small compared to the total size of the insurance industry. While it could be argued that providers would reduce their premiums as they would not have to include any commission as part of the fee, the lack of competition means that brokers can keep their prices as they are and not face a reduction in demand for their services. Secondly, commission is not the fundamental cause of rising premiums as detailed earlier in our response.

Question 21: If you are a freeholder or property managing agent, how do you currently structure your services relating to arranging and managing insurance?

32. As stated, this differs from across the sector, it is not possible to provide a broad overview due to the range of different working practices.

Question 22: Do you anticipate that the ending of percentage-based commissions for remuneration could lead to alternate ways of securing profits in relation to the arranging and managing of insurance? If so, what are they?

33. Yes, however this will depend on the different working practices and arrangements of each property managing agent, but we expect managing agents to seek alternative means of recovering any lost income.

34. *Questions 23 and 24 omitted as they concern issues of individuals with protected characteristics and the environmental impact of the legislation, which Propertymark is not equipped to answer.*

Question 25: Do you anticipate that this policy would be likely to impact the judicial system? Examples could be an increase or decrease in applications to court or tribunals, increasing the length or complexity of cases, and new requirements on judicial recruitment or training.

35. Yes, with rising awareness of leaseholder rights and understanding of more scrupulous arrangements from some managing agents and freeholders, we expect more leaseholders to challenge rising costs and unreasonable payment arrangements. Additionally, our ideal policy is one that increases transparency and enables leaseholders to challenge unfair insurance costs. This will of course increase pressure on the judicial system. While we support the ability for leaseholders to challenge costs, the additional pressure on the judicial system will need to be taken into account.

Questions 26-32 omitted as they are not relevant to property agents or are outside of Propertymark's area of expertise.