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# Multi Occupancy Buildings Insurance (MOBI) FCA's Final New Rules

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# Agenda

- Background into MOBI
- The FCA's Thematic Review
- The FCA's Final New Rules
- Action Brokers and Insurers should take



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# Background into MOBI



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**Post Grenfell, the Building Fabric of the UK was under the spot light and it quickly became apparent that Grenfell might not be an isolated case. There were many other multi occupancy residential buildings across the UK containing not just ACM Cladding but other materials that contributed to an inherent fire safety risk for example lack of cavity wall breaks, timber balconies and polystyrene insulation.**

**For risks with these type of exposures, insurance became either very difficult to obtain or it would come at a cost. One significantly higher than previously enjoyed.**

**Initially, it was expected that owners of these buildings would have to foot the bill to make these buildings safe, but invariably these owners were leaseholders who were normal consumers with mortgages for their flats and many could not afford the remediation costs let alone the spiralling costs to insure these buildings. This led to the formation of Cladiator groups who lobbied members of parliament to take action and look into the injustice of having to pay for remediation works and the perceived unfair nature of the insurance costs for buildings that not so long ago were deemed to be safe and paying normalised premiums.**



**The Rt Hon Secretary for State Michael Gove took up the challenge and ultimately government established the Building Safety Fund. The fund was initially designed for the remediation of buildings with cladding up to 18m but this was expanded under intense lobbying to 11m and included other identified fire safety issues.**

**Mr Gove also stated he would hold building developers to account and would ask the Financial Conduct Authority to investigate insurance costs in the sector.**



**As at 1 November 2023, 52 developers have signed a pledge committing to remediate life critical fire safety works in buildings over 11 metres that they have played a role in developing or refurbishing over the last 30 years in England.**

**Developers making this commitment have also agreed to reimburse any funding received from government remediation programmes in relation to buildings they had a role in developing or refurbishing.**

**Source – [www.gov.uk/guidance/list-of-developers-who-have-signed-building-safety-repairs-pledge](https://www.gov.uk/guidance/list-of-developers-who-have-signed-building-safety-repairs-pledge)**



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# The FCA's Thematic Review

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**The FCA issued reports in September 2022 and April 2023 which found significant issues in the multioccupancy building insurance market, which are leading to poor outcomes for leaseholders.**

**They published a consultation paper setting out their proposed remedies to address issues with transparency, product design and remuneration practices.**

**In April 2023, The FCA published a consultation paper and proposed a number of rule changes.**

**These changes were intended to address the harms identified in the multi-occupancy building insurance market:**

- Leaseholders are legally bound to pay insurance charges. They have no influence over policy selection or price and are not ‘customers’ of the insurer or broker. Where leaseholders are not customers, there is no express requirement to consider their interests.**

- **The lack of transparency makes it harder for leaseholders to challenge whether costs have been reasonably incurred and allows firms to hide poor practices.**
- **Some remuneration practices within the market seem excessive and do not deliver fair value. • •**
- **Distribution of insurance often involves multiple parties taking remuneration that is included in the premium being paid.**
- **The FCA's work identified commissions of up to 62% being paid to brokers in some cases.**

- **Most firms could not explain why current remuneration practices were justified. Of particular concern was the practice of commission being shared onwards with freeholders and their property managing agents (PMAs).**
  
- **These issues have caused considerable distress for many leaseholders, including affecting their mental health and wellbeing.**

## In the FCA's consultation they proposed:

- introducing new disclosure requirements aimed at providing key information to leaseholders.
- including leaseholders, and others in a similar position, as 'customers' within the scope of some of the FCA's rules.



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# The FCA's New Final Rules



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**The FCA want's to ensure better outcomes for leaseholders in the multi-occupancy building insurance market, and other policy stakeholders in a similar position to leaseholders.**

**Their rules will do this by:**

- **Increasing transparency for leaseholders. This will make it easier for them to identify and challenge poor practices and incentivising firms to deliver better outcomes.**

- **Requiring firms to ensure their products are consistent with the needs and interests of leaseholders and other policy stakeholders, are priced in a way that provides fair value and that remuneration practices do not lead to poor outcomes**
- **The FCA are clarifying the ‘leaseholder’ definition to set out more clearly that it covers residential leaseholders. This means that the disclosure rules only apply to buildings insurance policies for residential leaseholders where they are liable to pay a service charge. Firms will not need to provide disclosures intended for commercial leaseholders.**

- They are also including an additional part to the definition of ‘policy stakeholder’ so that it only captures natural persons who are acting outside of their trade or profession. This is to clarify that commercial entities (including commercial leaseholders) will not be considered policy stakeholders.
- They are introducing guidance to make clear that the required remuneration disclosure for leaseholders must include all forms of remuneration or financial incentive, including contingent remuneration (payment that depends on a policy being taken out) and other remuneration earned post-contract.



- **The FCA are making provision in the disclosure rules to allow firms to estimate the premium breakdown at building or dwelling level if they are unable to identify an exact figure.**



**The rules come into effect from the 31<sup>st</sup> December 2023**

**ICOBS, PROD 4 and SYSC remuneration rules now includes specific consideration of a new category of policy stakeholder which in respect of multi occupancy buildings insurance is leaseholders.**

**Whilst a Broker's customer may be the building's freeholder or managing agent, they now must also consider the interests of leaseholders and act in their best interest.**



**There is a new disclosure requirement for Stakeholders.**

**Insurers and brokers will each be required to provide information for Stakeholders about the insurance policy, number of markets approached, potential conflicts and remuneration in cash terms of everyone in the distribution chain including any profit shares or contingent income.**

**This comes in the form of a stakeholder pack including a summary of cover from the Insurer and a Stakeholder Certificate from the broker. Brokers are required to ask their customers to share the pack with stakeholders as soon as practicable.**



**Product Manufacturers, predominantly Insurers, but also including MGA's and Brokers with Delegated Authorities (and co-manufacturer responsibilities) must now consider Leaseholders as a relevant part of the target market when designing, pricing and distributing their products.**

**They must also demonstrate that products provide fair value to leaseholders as well as any other customers. This means there must be a fair relationship between the total price and the overall benefits leaseholders receive.**



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# Examples



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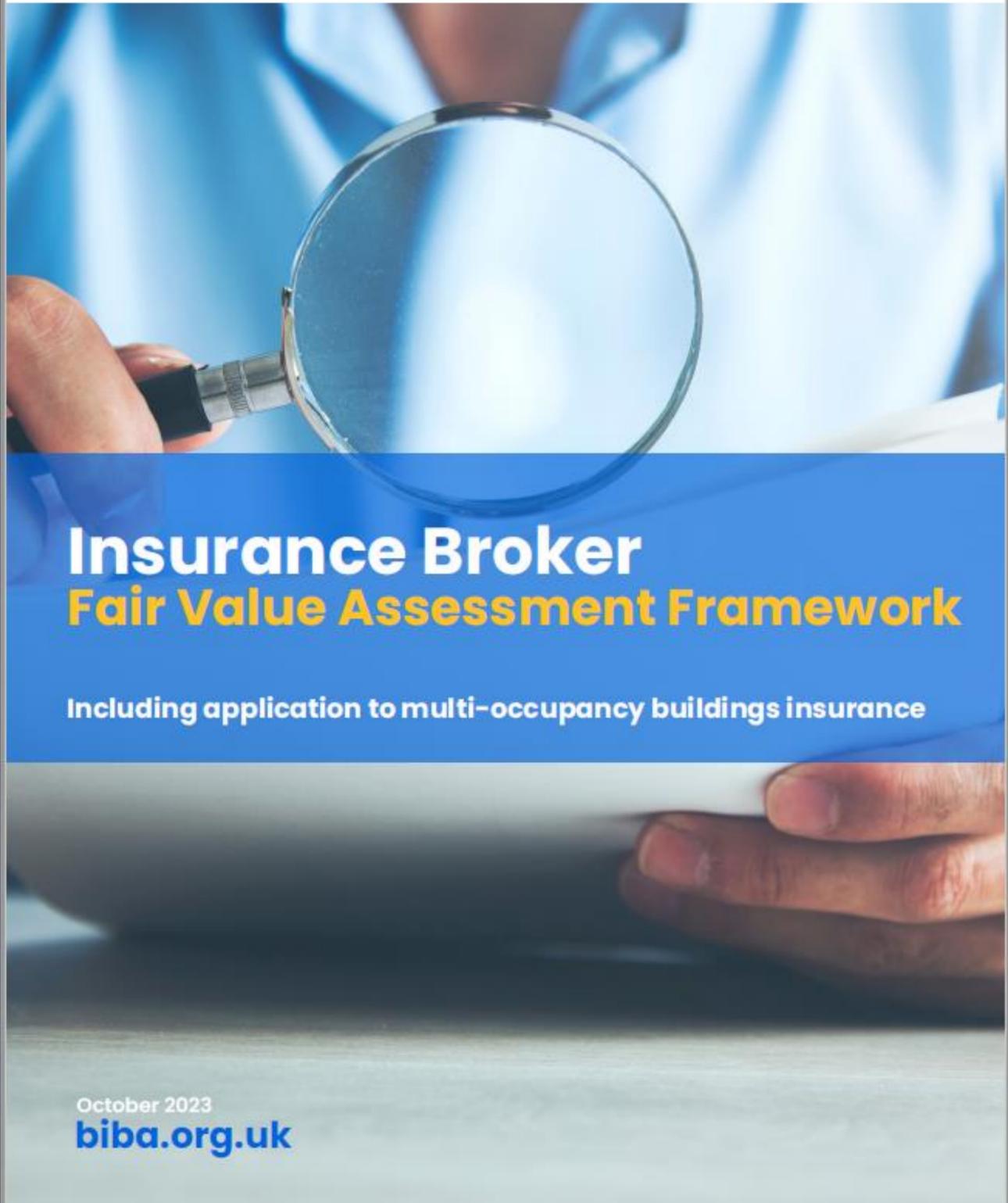


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**BIBA Members can assess the Fair Value of their products utilising the Oxera Fair Value Assessment Framework**

<https://www.biba.org.uk/regulation-updates/new-fair-value-assessment-framework-for-members/>

A photograph of a person in a light blue shirt holding a magnifying glass over a document. The magnifying glass is held in the person's right hand, and the document is held in their left hand. The background is a blurred office setting.

## **Insurance Broker Fair Value Assessment Framework**

**Including application to multi-occupancy buildings insurance**

October 2023  
[biba.org.uk](https://www.biba.org.uk)

**PROPERTY MANAGING AGENT COMMISSION SHARING AGREEMENT**

Dear XXXXX

This letter sets out the agreement for ABC Brokers Limited (ABC) to share with **[INSERT MANAGING AGENT NAME]** (who act as the property managing agent to various Policyholders for whom we arrange a buildings insurance policy under their instruction) the commission it earns on the relevant policies issued to the said Policyholders.

This agreement should be considered in conjunction with the ABC Terms of Business document which has already been provided.

The agreement is effective from **[Insert Date]**

(1) The payments are earned by **[INSERT MANAGING AGENT NAME]** as remuneration for insurance distribution activities they perform as the property managing agent of the properties covered under the relevant building policies. These activities include (but not limited to): **[Delete as Appropriate]**

- Invoicing of tenants and/or leaseholders for the collection and payment of insurance premiums
- Issuing insurance certificates to tenants and leaseholders
- Provision of risk and underwriting information
- Presenting contract certain terms to your client
- Issuing cover instructions to ABC
- Assist with the gathering of information in support of [claims](#)
- Attendance at loss adjustor visits
- Notifying claims to ABC
- Negotiating claim settlements
- Attendance at insurer property surveys as and when [required](#)
- Ensuring implementation of risk improvements requirements with tenants and leaseholders are completed within the timescales required by [insurers](#)

(2) Commission is calculated as % of the gross premium before the application of Insurance Premium Tax.

(3) The amount of commission paid to be paid will be detailed within the terms provided for the relevant buildings insurance policy.

(4) Commission will be due on the new business or renewal transaction and any subsequent mid-term adjustments and includes a commission clawback on any mid-term adjustment generating a return premium, or refund. Cancellations will be considered as mid-term adjustments. We may, at our sole discretion, offset any commission clawbacks due back against any commissions payable.

(5) Our standard payment terms are within 30 days of the receipt of cleared funds for the relevant premium transaction (normally at the start of month following client premium payment). Commissions will be paid on a quarterly basis, in arrears, where premiums are paid by monthly instalments.

(6) **[INSERT MANAGING AGENT NAME]** shall be solely responsible for the payment of any and all taxes due including (but not limited to) Income Tax, VAT and National Insurance payable in respect of the commissions due to them and shall account to HM Revenue & Customs for the same.

(7) All parties acknowledge the requirements and scope of the Bribery Act 2010 and will maintain systems and controls to ensure that all payments made and received under this agreement cannot be considered bribes or facilitation payments (in accordance with the meaning of the Act).

(8) To the fullest extent possible **[INSERT MANAGING AGENT NAME]** shall indemnify and keep indemnified ABC against all losses, costs, claims and liabilities whatsoever incurred by ABC Insurance Brokers Limited arising from the Policyholders' failure to comply with the requirements of clauses (6) and (7) above.

(9) This commission sharing arrangement will be reviewed on an annual basis but does not preclude alternative commission structures being considered on a case-by-case basis. ABC will be entitled to review and change this agreement to reflect changes in legislation or regulatory rules and where we are advised to do so by the Financial Conduct Authority or a relevant Government body.

(10) ABC will provide details of all commissions payments (in cash terms) to be received by both parties to this agreement in the quote it prepares for the Policyholder. **[INSERT MANAGING AGENT NAME]** agrees to pass the details of these commission payments onto the relevant Policyholder and/or the Directors of the relevant Residential Management Company or Right To Manage Company, prior to the issuance of cover instructions to ABC.

On behalf of ABC Brokers Ltd

|

Signed:

Name

Position: Director

Date:

On behalf of **[INSERT MANAGING AGENT NAME]**

Signed:

Name

Position:

Date:

Once a broker is confident that they can evidence fair value in the distribution chain draw up agreements with third parties.

This is an example of a commission sharing agreement with a property managing agent detailing the regulatory work carried out by them in return for any commission payment received.

## STAKEHOLDER CERTIFICATE

This Certificate is provided solely for Stakeholder information purposes. A stakeholder is the person(s) ultimately responsible to pay a contribution of the insurance premium by way of insurance rent and is entitled to certain pieces of information regarding the placement of the insurance policy including but not limited to receipt of basic policy information, disclosure of earnings for all parties in the distribution chain and the market [selection](#).

**Insurer:** ABC Insurance Company Ltd. Address 1, A City, XX1 1XX

**Broker:** ABC Insurance Brokers Ltd, Address 1, A City, XX1 1XX

**Managing Agent/Freeholder:** [INSERT MANAGING AGENT / FREEHOLDER NAME]

**Date of Issue:** .....

**Policy Number:** .....

**Policy Wording:** Residential Property Owners Insurance – [Version Ref](#)

**Name of Insured:** .....

**Premises Address:** .....

**Building Declared Value:** £ .....

**Period of Insurance:** From [2023](#) Renewal Date [2024](#)  
To [2024](#)

### Breakdown of Premium

<b>Buildings, Contents &amp; Liabilities:</b>	£ .....
<b>Terrorism:</b>	£ .....
<b>Insurance Premium Tax:</b>	£ .....
<b>Total</b>	£ .....

### Conflicts of Interest

There are no Ownership conflicts between the Managing Agent, Insurance [Broker](#) and Insurance Company provider of your policy.

### Earnings Disclosure

ABC Insurance Brokers Ltd earn remuneration for the placement of this policy in the form of a proportion of the insurance contract premium to which you contribute through the payment of insurance rent and allowed by RSA (known as brokerage). The brokerage totalling £..... is earned for the entire policy period and is retained in full upon policy placement.

ABC Insurance Brokers Ltd has a contractual arrangement with your property managing agent / freeholder \* [\[INSERT MANAGING AGENT / FREEHOLDER NAME\]](#) to share remuneration with them totalling £..... in return for insurance distribution activities, they perform as the property managing agent / freeholder \* of your property. These activities include but are not limited to:

- Provision of risk and underwriting information
- Presenting contract certain terms to your building representatives
- Issuing cover instructions on your behalf to ABC Insurance Brokers Ltd
- Issuing insurance certificates to tenants and leaseholders
- Invoicing tenants and leaseholder for the collection and payment of insurance rent
- Notification of claims to ABC Insurance Brokers Ltd
- Assist with gathering information in support of [claims](#)
- Attendance at loss adjuster visits
- Negotiating claim settlements
- Attendance at insurer property surveys as and when [required](#)
- Ensuring implementation of risk improvement requirements for your building in accordance with timescales stipulated by [insurers](#)

### Market Selection

ABC Insurance Brokers has carried out a "fair analysis" of the market [in order to](#) identify suitable products. This means we have compared products from a sufficiently large range of insurance providers in terms of cover, price, quality of service and other relevant features [in order to](#) select appropriate policies for you.

### Insurers Approached

Allianz, Arch, Aspen, Aviva, Axa, Brit, Ecclesiastical, Lloyds of London, NIG, RSA \*

ABC Insurance Brokers Ltd recommend this policy as being in the best interests of freeholders and leaseholders due to the breadth of cover and specific leaseholder extensions enjoyed as part of a bespoke policy wording agreed with insurers at what is a competitive premium.

\* [delete as applicable](#)

Brokers should develop a Stakeholder Certificate for issue with the Insurers Summary of Cover

This is an appropriate example which details the information the FCA rules demand is disclosed to Leaseholders.

Brokers are required to instruct property managing agents and / or freeholders to pass on to Leaseholders as soon as practicable to do so.

**Thank you**



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