



Multi-Occupancy Properties

HOWDEN

Government progress leasehold reform proposals

The Government has announced leasehold reform as a commitment for this session of Parliament. This overlays the requirements that the Financial Conduct Authority (FCA) have implemented in this area.

We have summarised the impacts of these changes to help you understand what we believe to be the requirements and your adviser will discuss these with you in the lead up to your next renewal to work through any implications resulting from these changes.

In the context of this fresh wave of leasehold reform, the FCA refers to landlords, managing agents and freeholders as 'third parties'. For consistency, this term is used throughout this article.

29 September 2023

FCA publishes final rules for multi-occupancy building insurance, designed to deliver better outcomes for residential leaseholders. The new rules come into effect on 31 December 2023.

November 2023

Draft legislation introduced to Parliament proposing reform of the leasehold system and will ban insurance commissions being paid to 'third parties' and replace them with transparent handling fees.

FCA new requirements

The FCA has published their [final rules for multi-occupancy building insurance](#), introducing new measures designed to deliver better outcomes for leaseholders.

The new rules are intended to address the FCA's concerns concerning regarding a perceived lack of focus on leaseholders both in terms of product value but also transparency.

One key development is the creation of a **new category of customer – the 'policy stakeholder'** – this includes leaseholders who should have their interests considered alongside other customers.

The new rules require regulated firms (insurers and insurance brokers) to:

<p>Act in leaseholders' best interests</p> <p>Treat leaseholders as customers when designing products</p> <p>More information on the FCA changes can be found on page 7.</p>	<p>Immediately stop paying commissions to third parties where evidence of 'fair value' to leaseholders has not been demonstrated</p> <p>Ensure that their insurance policies provide fair value to leaseholders</p> <p>More information on how the FCA define 'fair value' can be found on page 8.</p>	<p>Provide leaseholders with important information about their policy and its pricing, including the detail of any commission paid</p> <p>More information on the new disclosure rules can be found on page 9.</p>
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The new measures also ban firms 'from recommending an insurance policy based on commission or remuneration'.

The new rules affect all multi-occupancy residential or mixed-use properties, irrespective of height, and will come into effect on 31 December 2023.

Further reform in 2024

The new Leasehold and Freehold Reforms Bill is expected to replace building insurance commissions for 'third parties' with 'transparent administration fees'. This is being presented to Parliament and will propose wholesale change to the leasehold system and provide "transparency" for leaseholders in relation to service charges.

We're standing by to help

Your usual adviser will be in contact with you in the lead up to your next renewal to work through any implications resulting from the FCA's new rules.

Additional information on the FCA's final rules for multi-occupancy building insurance can be found below, and we will continue to deliver insights and updates as more information becomes available. In the meantime, if you have any questions, please get in touch with your usual adviser.



What changes have the FCA introduced?

Additional information on the FCA's final rules for multi-occupancy building insurance

Product Intervention and Product Governance Sourcebook (PROD) rules

Requires firms to:

- Consider leaseholders as a relevant part of the target market when designing, pricing and distributing their products
- Demonstrate that products provide fair value to leaseholders as well as any other clients. This means there must be a fair relationship between the total price and the overall benefits leaseholders receive

Firms need to consider the amount of remuneration they share with 'third parties'. The new rules do not allow such payments unless firms can demonstrate they provide fair value to leaseholders.

Insurance Conduct of Business Sourcebook (ICOBS) rules

Requires firms to apply the ICOBS customer's best interests rule for the benefit of policy stakeholders. This requires firms to act honestly, fairly and professionally in accordance with the best interests of leaseholders.

The FCA accepts that the interests of 'third parties' and leaseholders may not fully align, although they consider that all parties have a clear interest in ensuring their properties have the right insurance cover at a fair price. Firms are already required to act in the best interests of customers and to manage conflicts of interest.

Senior Management Arrangements, Systems and Controls (SYSC) rules

Requires firms to treat leaseholders and other policy stakeholders as customers and must:

- Consider all the remuneration they receive, whether or not they intend to retain the whole amount or make payments to 'third parties'
- Ensure any remuneration they pay to another person is consistent with the best interests of customers (including policy stakeholders)

Policy stakeholder

The FCA defines a policy stakeholder as:

A natural person (excluding a policyholder) who is under a contractual or statutory obligation, which does not arise solely from that person's trade or profession, to pay an amount:

1. relating to:
 - a. the premium, and
 - b. any other costs connected to the distribution of a non-investment insurance contract; and
2. where the obligation arises in relation to the person having an interest and/or benefit in the subject matter of the insurance.

Commercial tenants

These are not defined as 'leaseholders' or 'policy stakeholders' under the FCA's new rules. This means there is no change for leaseholders or 'third parties' in connection with commercial properties.

Sub-tenants

The FCA does not consider sub-tenants or those with assured shorthold tenancies to be leaseholders or policy stakeholders. This is because tenants in these cases do not typically have a specific contractual obligation to pay an amount relating to the insurance premium for building cover. Their obligation to make any payment is not sufficiently closely related to the insurance premium to be covered by the definition.

How does the FCA define 'fair value'?

One of the four expected outcomes under the FCA's new Consumer Duty is that products and services should be sold at a price that reflects their value, and there should be no excessively high fees.

Under the FCA's new rules for multi-occupancy building insurance, firms must 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.

What are the new disclosure rules?

What needs to be disclosed?

New information must be provided to leaseholders as follows:

- **A summary of the features of the policy**, including main benefits, coverage and exclusions of the policy, duration and insured sum
- **The policy premium**. Where the policy covers a portfolio of buildings, firms must disclose the premium at building and dwelling level
- **The remuneration** which any authorised intermediaries received for arranging the insurance, as well as remuneration they pay to 'third parties'
- **Information about potential conflicts of interests**, such as ownership links between the intermediary and the insurer, and about the insurers with whom the intermediary may place the policy
- **The number of alternative quotes they have obtained** (with further details of these to be provided on request) and a brief explanation of why they have proposed or recommended that the policy is in the interests of both the freeholder and leaseholders

Who is responsible for providing information to leaseholders?

Responsibility for producing the information is split between the insurer and intermediary (Howden). The insurer is responsible for providing the policy summary and pricing information. The intermediary is responsible for producing remuneration, conflicts of interest and placement information. The third party who is in contact with the customer would be responsible for providing the information to them.

What this means in practice is, Howden will take responsibility for obtaining the appropriate policy summaries from the insurer and producing the disclosure statements covering all of the required information for all leaseholders. This is required to be issued as soon as reasonably practicable after the conclusion of the contract. It will be issued to you (our client) to then make available to each leaseholder.



Still have questions?

Please get in touch with your usual adviser – we're standing by to help.

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