Which? Written Evidence

Regulation of the Consumer Insurance Market - Lords Financial Services Regulation Committee

Introduction

Which? is the UK's consumer champion. We provide direct advice to consumers, conduct research to understand consumer attitudes, and identify solutions that drive better outcomes in sectors across the economy. We have long-standing concerns regarding consumer harm in consumer insurance markets, in particular in home and travel insurance.

Which? welcomes the opportunity to submit written evidence to the House of Lords Financial Services Regulation Committee's inquiry into the regulation of the consumer insurance market, following our oral evidence on 17th June 2026.

Executive Summary

SECTION 1: Background to the Market

This market is particularly complex for consumers. They are unable to accurately judge their own risk profile, and they go into the purchase expecting not to actually use the product.

SECTION 2: Evidence of Consumer Harm

We have found that harms to consumers occur across the whole consumer journey: how a product is sold to a consumer; the product's content and suitability to the consumer; problems when a consumer makes a claim; and problems with the eventual claim outcome.

SECTION 3: FCA response to the Which? Supercomplaint

We welcome that the Financial Conduct Authority (FCA) accepted the super-complaint and announced 5 new and expanded areas of work. Due to the scale of the issues and the competitive pressures on firms, it is unlikely that voluntary initiatives by the industry will be sufficient. It is also unlikely that consumer awareness campaigns will suffice. Therefore the FCA needs to consider the interventions they must make to improve the market.

SECTION 4: Policy Recommendations

We believe there are four main areas that need to be improved in regard to the regulation of the insurance sector:

- The FCA should develop better insight on emerging consumer harm.
- The FCA should improve its supervision and enforcement of current rules.

- The FCA should make new market interventions to address poor quality products and sales processes.
- The FCA and the Government should review the consumer insurance legislation framework to make sure it is fit for purpose.

We expand on these four areas with specific recommendations for each area below.

SECTION 1: Background to the Consumer Insurance Market

1. Insurance markets are critical to the functioning of our economy and society. These markets enable risk pooling and underpin household financial resilience which facilitates economic growth. Buildings insurance, for example, is typically a contractual requirement for securing a mortgage, helping people to get onto the property ladder and to protect what is often their most important asset.

2. There are inherent features of insurance markets which make consumer harm more likely. Products are complex, risks are unknown and people don't expect to need to make a claim – and indeed it is rare for people to make claims.

3. These inherent features are compounded by how general insurance markets function. It is very difficult for people to know what to buy, and to compare products and firms. The sales process often narrowly focuses consumers on price, leading to the selling of unsuitable products. This also means that firms primarily compete on price rather than on the quality of products or claims handling-service and outcomes.

4. Proper regulation and enforcement is therefore especially important for good customer outcomes in insurance markets. In many cases, insurers are properly supporting consumers when they need it, particularly on simpler claims. However, all too often we find that firms are letting down consumers when they most need them, particularly in home and travel insurance where claims acceptance rates have been consistently lower than other sectors.

Section 2: Evidence of Consumer Harm

5. Our evidence of consumer harms in these markets cover the whole consumer journey: when they first buy a product; the content and suitability of the product; their treatment when making a claim, and the final claim outcome.

How products are sold to consumers

6. Consumer misunderstanding is likely to be a key driver of low claims acceptance rates in home and travel insurance. This is partly due to the inherent complexity of insurance products, though we also believe that not enough is being done to improve consumer understanding, particularly throughout the sales process.

7. FCA data shows 77% of consumers have used a comparison tool to compare or buy insurance. **However these sales processes do not address the most significant consumer misunderstandings about insurance.** FCA regulations require insurers to take action to enable consumers to make informed decisions when purchasing products and to ensure that a proposed insurance contract is consistent with the customer's demands and needs. However, Which?'s research shows that consumers frequently misunderstand the coverage offered by insurance products. The tables that comparison sites use to compare policies have remained relatively unchanged for many years, comparing products on the most straightforward features rather than the most important.

8. **Important metrics relating to claims handling outcomes and experience are typically missing from the sales process, undermining competition on quality between providers.** Instead, insurance buyers rely heavily on price to choose a policy. Almost half (48%) of insurance buyers rated price as the most important factor when choosing a policy.

9. **Consumers are unnecessarily asked to input difficult answers where insurers have access to the information from other sources.** For example, when buying home insurance, people are sometimes asked whether your property is within a certain distance (eg 400 metres) of any river, stream, canal, lake, or the sea. However, guidance from the Association of British Insurers (ABI) states that it is best practice for firms to use flood risk maps to determine flood risks, and that questions about distances to watercourses 'can be hard to understand and difficult for householders to answer correctly'. By unnecessarily asking consumers to answer questions such as these, without indicating the firm's prior assessment, this unnecessarily increases the risk of an error on the consumer's part which could potentially be used against them.

What products are sold - their content and suitability

10. **The hollowing out of products, whereby the level of cover is reduced so that firms can compete on price, is a long-running issue in insurance.** The UK Regulators Network (UKRN), which brings together regulators from different sectors including the FCA, published a report a decade ago which highlighted hollowing out

as a growing risk. It also noted that intense focus on price comparison platforms intensified the risk of stripping back product quality. The industry also raised concerns during this time. The British Insurance Brokers' Association (BIBA) submitted evidence to the Competition and Markets Authority (CMA) a decade ago stating that price comparison sites were driving a race to the bottom and causing a hollowing out of policies to rank higher on search listings.

11. The FCA's Consumer Duty guidance states that products should be designed to meet the reasonable expectations of the consumers they are intended for. Firms should also be preventing foreseeable harm, which clearly includes rejected insurance claims. **Yet there are many examples of products that do not meet consumer expectations or industry standards, and where cover has been reduced over many years.**

12. For example, Defaqto found that between 2019 and 2024, the proportion of travel insurance policies covering airline failure – which covers the costs of flights if an airline goes bankrupt – fell from 51% to 12%. This is despite Defaqto's consumer survey finding that scheduled airline failure cover increased from 17th to 7th between 2021 to 2023 in a consumer list of desirable features in a travel product.

13. In February 2025, we asked consumers with buildings insurance how they defined flood and storm. Most thought that a flood was when water builds up in your home, no matter how fast this happens; and most thought that rain, hail and snowstorms can happen without storm force winds. The ABI, the government's Flood Re scheme and guidance from the Financial Ombudsman Service (FOS) agree. Of the 133 policies that we reviewed, we found that one in three contained flood definitions and one in five contained storm definitions that contradicted most consumers' common sense expectations and industry guidance. We believed each of these policies was potentially unfair to consumers. The FCA has since found that only around one in three people (32%) who made a storm claim received a settlement payment during 2024. This is clear evidence that foreseeable harm is not being addressed sufficiently by firms in line with the Consumer Duty.

How consumers are treated during the claims process

14. It is vitally important that consumers are treated fairly by their insurance provider when they need them most. That might be following a car crash, a flood in their home or when needing medical treatment on holiday.

15. We analysed the text of 8,500 FOS decisions on motor, home, travel and pet insurance using a large language model. This showed high rates of FOS decisions involving unnecessary delays, and causing undue distress and inconvenience. This

spanned widely-held products and included many large providers. Levels of distress were also persistently high in areas where we would expect insurers to exercise particular care such as medical issues in travel insurance and cases where an insurer needed to make repairs to buildings. These decisions show firms not acting in a fair and reasonable manner, and not complying with FCA rules and other legal obligations to consumers.

16. We also surveyed over 3,000 people who had made a recent home, motor, travel or pet insurance claim. We found widespread and significant harm, including that.

    a. Almost half (48%) of all people making a claim experienced at least one problem in their insurance claim journey.

    b. We found issues at each of the main stages of claim:

        i. One in four people making a claim (26%) said that their insurer's initial contact did not leave them feeling clearer or more certain of their situation.

        ii. One in five (21%) people making an insurance claim had to repeat information or repeatedly share documentation and evidence multiple times during their claims process.

        iii. One in five (20%) of consumers making a claim had to chase for information on the progress of their claim.

        iv. One in four (24%) of claimants surveyed that had their claims rejected said they did not understand why.

    c. Claims involving third parties were nearly twice as likely to have problems arise (60%) compared to those without them (34%). This is despite the FCA's Consumer Duty guidance being clear that firms should consider how outsourcing to third parties can impact customer outcomes, and consider this as a key risk that could cause consumer harm.

    d. People surveyed who were severely impacted by the incident that led to their insurance claim were more likely to experience problems in their claims journey (63% compared to 33% of people not severely impacted). This is despite the FCA's vulnerability guidance making clear that 'firms should take additional care to ensure they meet the needs of consumers at the greatest risk of harm.'

e. Almost half (44%) of people surveyed who were severely impacted by their incident said their insurer's actions negatively impacted their mental health, compared to just 9% of those not severely impacted by their incident.

The Outcomes of Claims Part 1: Low Claims Acceptance

17. Claims acceptance rates across the home insurance sector have remained stubbornly low, according to the FCA's general insurance value measures data. For buildings-only cover, less than two in three (63.2%) claims were accepted in 2024. 24 firms accepted fewer than three quarters of combined home insurance claims in 2024. Three firms – esure, Lloyds Banking and Rentokil – each accepted less than one in two buildings insurance claims.

18. In travel insurance, a fifth of claims for single trip policies were rejected in 2024 – roughly the same figure for 2023. Claims acceptance rates have increased slightly for annual policies, with around one in seven rejected in 2024 for European (13.7%) and worldwide (15.5%) policies. This compares to 99% claims acceptance rates for motor insurance.

The Outcomes of Claims Part 2: Unfair Payouts

19. Our large-scale analysis of the text of FOS decisions could not determine how often the FOS determined that payouts had been unfair and by how much. However, there are many FOS decisions that we have reviewed where this is the case ,and Which? receives many case studies where original offers are overturned, resulting in claims involving many tens of thousands of pounds being ultimately owed to consumers.

20. The FCA's findings on motor insurance total loss (write-offs or theft) claims were very concerning. The FCA's review found that some firms would sometimes provide initial settlement offers that were below the insured vehicle's estimated market value or at the lower end of an identified range. They did so expecting to increase the offer if the customer challenged the original one or complained, even if the customer provided no additional information. The FCA has taken action to rectify these specific issues in motor insurance.

21. These poor practices suggested there may be wider issues on claims where the fair value is more contestable, such as major repairs to a property. This was confirmed when the FCA found in its claims-handling review that some home and travel insurance providers were 'choosing cash settlements primarily to contain costs without considering customers' best interests.' However, it remains unclear how

urgently the FCA is tackling these poor practices, and how customers who have lost out over many years are provided with redress.

SECTION 3: Which?'s super-complaint and the FCA's response

22. The FCA itself has found issues in this sector time and time again, over more than a decade. The consequences for firms have rarely been clear. The FCA's 2025 home and travel insurance claims-handling report found many of the same issues the FCA had found on their last such report a decade earlier, despite the Consumer Duty coming into force in July 2023.

23. We had no option but to escalate our concerns with a super-complaint, to help spur more action. This was the first super-complaint that Which? had submitted in any market in nine years.

24. We welcomed the FCA's response to our supercomplaint, which agreed with many of our concerns. In response, the FCA announced five new and expanded areas of work:

    a. *Amending the scope of our planned outsourcing oversight work to include different delegated authority models and remuneration arrangements. We will also carry out an analysis of claims service quality which will now focus on home and travel insurance.*

    b. *Consider how we capture claims outcomes as part of our post-implementation review of our value measures rules.*

    c. *Analysing how different sales processes affect consumer outcomes. This will help us understand whether market dynamics are leading to consumer harm.*

    d. *Reviewing how home and travel insurance firms are acting to improve consumers' understanding of their insurance cover and share best practice with the industry.*

    e. *Working with the industry and consumer groups to find new ways to improve consumer understanding of their insurance cover.*

25. We are working closely with the FCA and we understand that each piece of work is on track with what the FCA outlined in its response to the super-complaint. The FCA has committed to publish an update on progress by the end of 2026, which will be a big test of whether it is addressing the scale of the task urgently enough.

26. Which? is represented on the FCA's Consumer Understanding Working Group. We have been clear that due to the scale of issues and the competitive pressures on

firms, it is unlikely that voluntary initiatives by the industry will be sufficient. It is also unlikely that consumer awareness campaigns will suffice. We expect the Working Group to make recommendations for the FCA to intervene to improve the quality of products and better enable meaningful comparisons of providers and products, to ensure that consumers are supported properly when applying for insurance. The FCA should respond formally to these recommendations and then report publicly on the progress of any commitments.

SECTION 4: Policy Recommendations

We want to see the FCA: develop better insight on emerging consumer harm; improve its supervision and enforcement of current rules; make new market interventions to address poor quality products and sales processes; and work with the Government to review and strengthen key insurance legislation.

<u>The FCA should develop better insight on emerging consumer harm</u>

27. The FCA needs to radically improve how it is supervising and enforcing its rules and the law. It took the FCA to do a bespoke data request from a sample of firms to find that just one in three storm claims were accepted in 2024. We would expect the FCA to routinely collect data such as this as part of its General Insurance Value Measures, which currently only provide headline figures.

28. We want to see the FOS and the FCA make better use of the insight from FOS decisions. We examined the text of over 8,500 FOS decisions related to motor, home, travel and pet insurance. In each case, we examined an ombudsman's reasoning for why a complaint was upheld. This is a resource-intensive data project analysing the texts of PDFs and coding them, and we were only able to do this effectively for decisions based on unnecessary delays and distress and inconvenience. A more systematic approach should be undertaken by the FOS alongside the FCA. This will help identify the scale of unfairly low claim payouts, the drivers of poor outcomes, and identify firms that are persistently failing to address issues with how they handle claims and complaints.

29. We responded to the FCA's review of its General Insurance Value Measures by calling for changes so that these measures:

    i. Disaggregate queries from actual claims

    ii. Identify the insurance brand as well as the underwriter

iii. Detail the type of claim eg for home insurance whether it was storm damage, a pipe leak or burglary etc

iv. Whether the claim process was handled in-house or outsourced

v. The type of remedy eg cash settlement or remedied by the firm

vi. Connect with claims complaints data with Financial Ombudsman Service (FOS) escalation rates and final outcomes.

The FCA should improve its supervision and enforcement of current rules

30. Despite the evidence of issues leading to consumer harm found in consecutive FCA reviews, we found little evidence the FCA was addressing these sufficiently. We found that the FCA had just six enforcement investigations that remained open across the general insurance and protection sector at the end of March 2024, and no enforcement investigations were opened in the year to March 2024.

31. The FCA's Unfair Contract Terms Library showed that the FCA has agreed just one undertaking with an insurance firm to address unfair contract terms in the previous six years. It had agreed on just three undertakings with insurance firms since September 2013. Yet the expert legal review of a small sample of policies we commissioned from an external barrister uncovered many examples of non-compliance with FCA rules, as well as failures to meet statutory consumer protection standards for lack of transparency and other reasons, and likely breaches of specific insurance legislation.

32. The former head of insurance at the FCA recently told the Committee in his oral evidence that 'for the vast majority of firms, supervision works on a reactive basis.' While this is important, the FCA also needs to be more proactive in identifying and addressing emerging harm. For example, one of the main successes which the FCA cites since the Consumer Duty is its work to tackle the poor value of guaranteed asset protection (GAP) insurance, which covers the difference between the amount your insurer would pay out if your car was stolen or written off and the price you paid for the vehicle. However, the FCA had found that profit margins on these products were very high as far back as 2014 in its first ever market study, which persisted up until 2023 when the FCA found that as little as 4% of the amount paid in premiums were paid out in claims.

33. The FCA's review of claims-handling did not outline how many firms it was taking action against. In response to the Freedom of Information (FOI) request we submitted to the FCA in August 2025, the FCA refused to give overall numbers of

open enforcement investigations either across the general insurance sector or specifically in relation to home and travel insurance. One reason given was that 'because of the low numbers involved', this could lead to the identification of the firms involved. However, in its response to our super-complaint the FCA provided an overview of its activities, including that it had opened two enforcement cases, commissioned independent reviews of three firms' claims handling systems and controls. We want the FCA to report in this way more systematically when it identifies potential failings by firms, to act as a deterrent which drives up standards in the markets.

34. The FCA should:

    a. **Be more proactive in challenging whether firms' products are meeting consumers' reasonable expectations and sales processes are ensuring customers demands and needs are met.**

    b. **Act more urgently to stop harm arising, with a credible deterrent for non-compliance with FCA rules and breaches of the law such as unfair contract terms.**

    c. **Be more transparent about the scale of supervisory and enforcement activities, and the outcomes of these processes, to act as a deterrent and build trust in its work.**

<u>The FCA should make new market interventions to address poor quality products and sales processes</u>

35. Consumers should be able to tell the quality of an insurance provider and product when they are purchasing it, and they should be supported to make judgements about their needs. Comparison sites, where most people buy home and travel insurance, primarily show star ratings on products. Comparisons of specific product features and cover levels are based on a limited number of data points, which are often not the most relevant. It is rare for consumers to see any information on claims outcomes or claims experience by firms when purchasing insurance.

36. Firms selling insurance policies, including comparison sites, need to invest in better sales processes to help ensure that policies better meet consumers' needs and expectations. However, incentives on firms to improve are weak. It would be difficult for one comparison site to change their focus toward quality significantly without losing market share.

37. Consumer trust in comparison sites remains high despite the issues we have

identified. With such weak incentives on these providers to change, the FCA therefore needs to intervene to force improvements. We want the FCA to:

a. **Establish an industry-wide claims experience survey and require comparison sites, brokers and insurers to show the key findings along with FCA data on claim acceptance rates.**

b. **Ensure firms only ask for new information from consumers where they cannot reasonably obtain this from alternative sources.** Where firms are using data from other sources, such as flood risk data, they may need to check this with customers but they should make this clear.

The Government and the FCA should review and strengthen key insurance legislation

38. The FCA should work with the government on some key areas where the law could be strengthened, to better counteract the weak position that consumers find themselves in when purchasing insurance and making claims.

39. In particular, we recommended that the FCA and the government should review whether the Consumer Insurance (Disclosure and Representations) Act (CIDRA) 2012 and the Insurance Act 2015 are working as intended, as post-implementation reviews have not been published by the Government despite commitments to do so within five years of implementation (see here for CIDRA 2012 and here for the Insurance Act 2015).

40. The FCA rejected this proposal in its super-complaint response, stating that the Government 'shares our view that the current legislative framework and available rules are sufficient to protect consumers and allow us to take appropriate action.' This is a missed opportunity to address specific issues with the two pieces of legislation and how they are being enforced.

41. CIDRA 2012 currently puts an obligation on consumers 'to take reasonable care not to make a misrepresentation to the insurer' when they are filling in their details to buy a policy. The potential remedies for firms can only be used where, without the misrepresentation, the insurer would not have entered into the current contract. A 'qualifying misrepresentation' also needs to be 'deliberate or reckless' or 'careless'. However, examples such as this ongoing legal case show the potential pitfalls for consumers. We have also found insurance policies which seek to give the provider remedies beyond the qualifying factors in CIDRA. For example, one home policy reserved a right to 'void the policy' if the consumer provided 'any inaccurate information'.

42. The Insurance Act 2015 requires that insurers cannot rely upon breaches of terms in an insurance policy to limit or refuse claims unless the loss relates to those terms. It currently puts the burden of proof on consumers, which does not reflect the power imbalance and information asymmetry between consumers and firms. Our expert legal analysis found examples where firms' terms made this worse by suggesting failure to comply with a particular requirement entitles the insurer to refuse all claims, whether or not related to the failure. For example, a travel insurance policy permitted the provider to refuse a claim on the basis of non-disclosure of a pre-existing medical condition 'even if a claim is not related to' such non-disclosure. Thus, a consumer's failure to disclose high blood pressure could potentially be used to refuse a claim for a stolen laptop.

43. Enforcement would also be more effective if there was a threat of fines from the FCA. Under the Digital Markets, Competition and Consumers (DMCC) Act 2024, the Competition and Markets Authority (CMA) has powers to fine firms directly for breaches of consumer law. These powers should be extended to the FCA to mirror the concurrent powers that the CMA and FCA have in financial services, and to better enable the FCA to tackle and deter firms from breaching consumer laws such as those prohibiting unfair contract terms.

44. **The FCA and the Government should now launch a review of the consumer insurance legislation framework**, including the following three key areas that require strengthening:

    a. **Making CIDRA 2012 presumptions clearer and simpler on 'failure to disclose', including taking better account of how insurers seek relevant information from consumers in practice.**

    b. **Reversing the burden of proof in the Insurance Act so that it is for insurers, not consumers, to show that non-compliance with a particular term actually has resulted in a loss or increased loss.**

    c. **Introducing fining powers for the FCA for breaches of consumer law.**

For more information, please contact publicaffairs@which.co.uk