Leaseholders make headway or

More legal challenges likely as tribunal agrees with residents over 'outrageous' charges

IAN SMITH AND KATE BEIOLEY

It was on the final day of the hearing that Angie Jezard became tearful.

Delivering a closing statement in a tribunal battle over insurance costs at her Canary Wharf block of flats, Jezard voiced frustration at the years it had taken to secure one "scrappy" piece of paper setting out the commissions she and her neighbours had been charged.

"I was absolutely exhausted. I had been up until 3am. You're up against a barrister," Jezard said after representing her fellow leaseholders in the dispute. The "complete lack of transparency" over charges had left her flabbergasted. "When sunlight does open it up, what do we find? It's just outrageous."

Insurance costs have become a critical battleground in the scandal over excessive service charges for leaseholders living in blocks of flats around the UK.

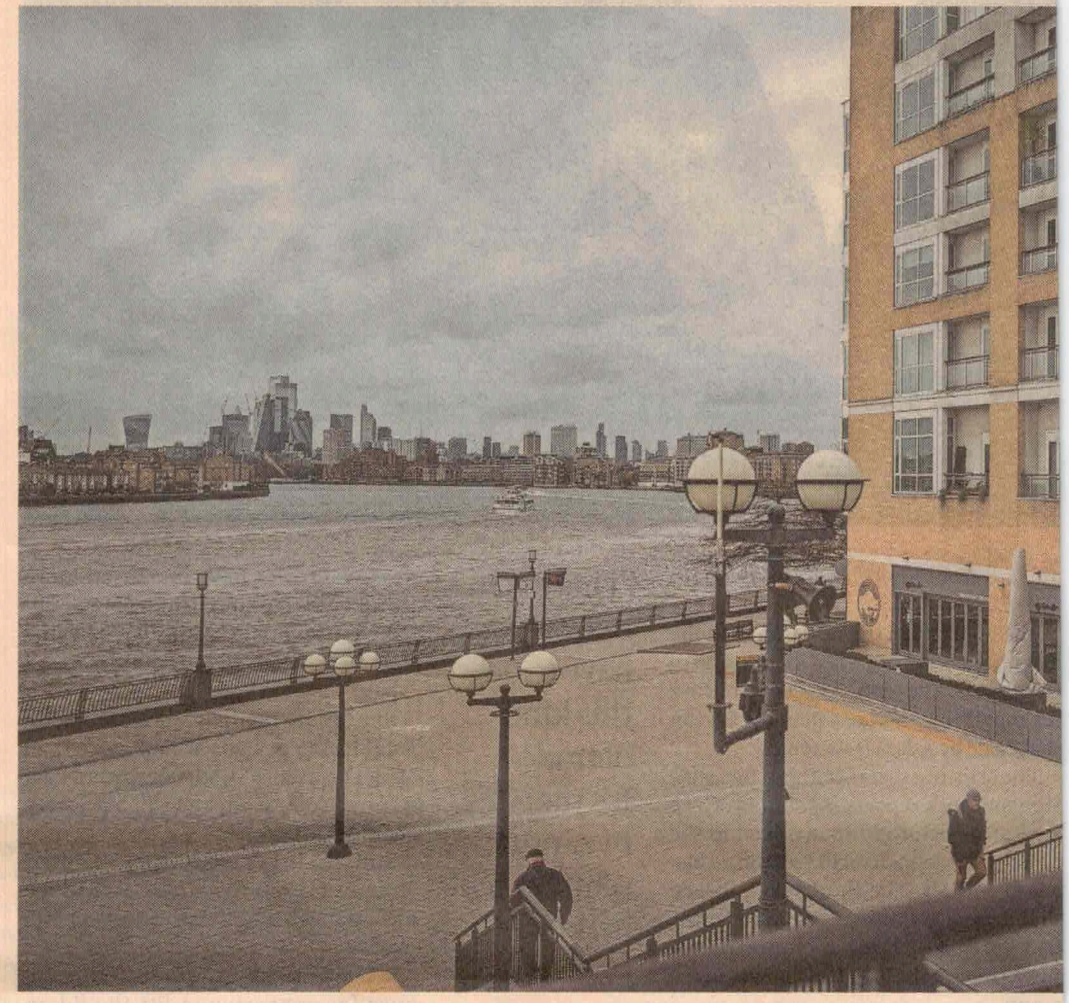
Such residents — who own their property for a fixed period of time, after which it returns to the landlord unless a costly lease extension or a freehold transfer is arranged — have to pay towards a group buildings insurance policy they have no control over selecting. These policies have become far more expensive in recent years, especially for residents of cladded buildings after the 2017 Grenfell Tower tragedy.

The biggest flashpoint is the commissions, the proportion of the insurance premium paid to brokers, but also more controversially to freehold owners and managing agents, which are rarely disclosed.

Through a series of legal actions, leaseholders are now attempting to bust open the incentive structure around buildings insurance policies that they argue are riddled with conflicts of interest. Their challenges are increasing the pressure on property investors and managing agents, and the global insurance companies and brokers they rely on, to change their practices.

In recent weeks, there have been some significant victories.

In Jezard's Canary Riverside case, the tribunal concluded that £1.6mn in payments should never have been demanded. The judge praised Jezard's "determined efforts", without which, the tribunal said, information provided by the insurance broker, Reich, about the insurance commission it retained — and that passed on to the landlord's managing agent WMS — would not have emerged. The tribunal ruled that the payments to WMS were unjustified, though it has granted the landlord permission to appeal.



Living costs: Canary Riverside owners say they are overcharged; residents of New Providence Wharf, such as Karryn Beaumont, below, are engaged in a similar battle
Charlie Bibby/FT

Shortly after the ruling, the freeholder of a nearby block of flats, the St David's Square development, conceded on about £20,000 of historic insurance commissions — equating to about £200 per participating flat.

Further challenges seem likely. The residents' association for One West India Quay, ultimately owned by the same freeholder as Canary Riverside, property tycoon John Christodoulou's Yianis Group, told the Financial Times "it seems we have no alternative" than to bring its own case.

The residents' association said the Canary Riverside case was "just a drop in an ocean of leaseholder overcharging that involves everyone in the sector", including brokers, managing agents and insurance companies. "We have been trying for years to establish a breakdown of what we pay," it added.

Yianis said it would be "inappropriate to comment" because the landlords were "preparing replies to the residents' association's current queries regarding the buildings' insurance".

Zurich, the lead insurer for the One West India Quay development, has told leaseholders it is "working to reduce the commission paid on buildings where premiums have significantly increased" but did not have permission to disclose information on charges, according to emails seen by the Financial Times. Zurich said it continued to operate "within the current regulatory environment".

France's Axa, which also insures the block, said it had been working with authorities to "develop regulation around commission within the insurance industry".

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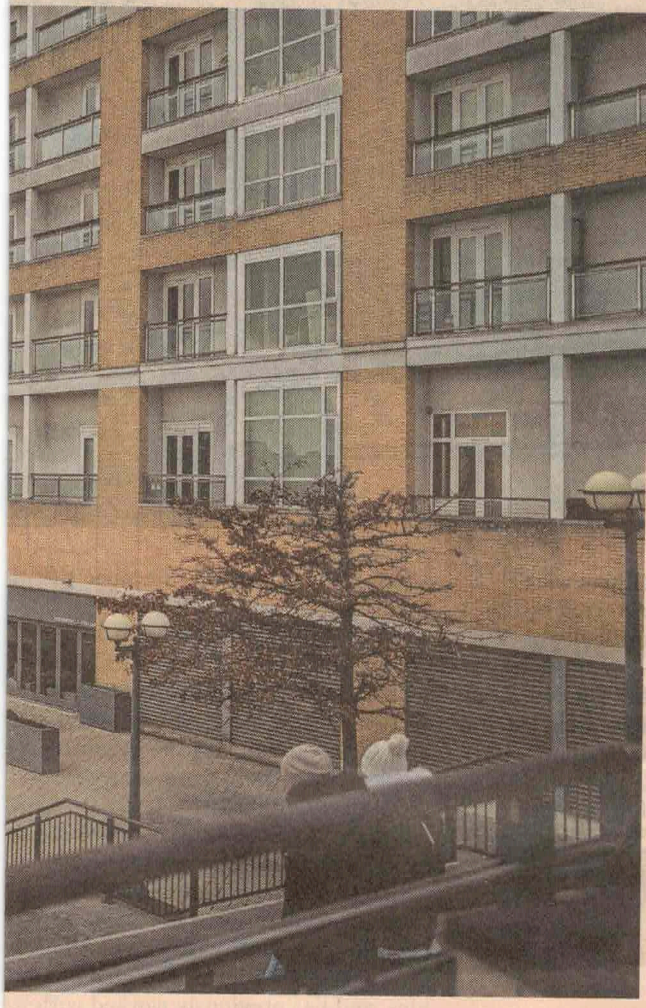

Leaseholder campaigners estimate excessive insurance costs run into hundreds of millions of pounds across the UK. Neil Holloway of M2 Recovery, which recovers funds for leaseholders, said these overpayments were likely to account for "well over £100mn" a year.

A report from the Financial Conduct Authority in September showed that brokers passed on more than half of the commission to the freeholder or the managing agent in 39 per cent of cases. The regulator said this could encourage freeholders and managing agents "to take account of the impact on their own remuneration when selecting an insurance policy or considering switching to a different insurer or broker".

And the amount paid has risen sharply. The FCA revealed that the insurance commissions received by brokers for cladded buildings had more than tripled since Grenfell to an average – across large and small developments – of almost £4,700 in 2021. For managing agents and freeholders, they had more than doubled. Even for buildings without cladding, they were up by 30 to 50 per cent.

Some freeholders have openly discussed the benefits of such commissions as an investment case.

'We have been trying for years to establish a breakdown of what we pay'

The freeholder at the St David's Square development in east London is the Arc Time Freehold Income fund, managed by a subsidiary of Alpha Real Capital, a London-based investment firm with more than £4bn of assets under management.

A 2020 prospectus for the fund said "buying block insurance on a large scale generates commission income that can be added to the fund's returns". Another fund document from 2016 quoted an article referring to insurance commissions as "a kickback" for freeholders.

Freehold Managers, which arranges insurance on behalf of the fund, said it had a "proven track record in delivering fully comprehensive insurance protection at a competitive price for its leaseholders", and that it took an opportunity to achieve a settlement at St David's Square "recognising the need for freeholders and leaseholders to work together". A spokesperson for the fund declined to comment.

The increased publicity of the leaseholders' plight has triggered government intervention. Last month, housing secretary Michael Gove promised to "ban managing agents, landlords and freeholders from taking commissions and other payments when they take out buildings insurance, replacing such payments with more transparent fees".

He has called on the FCA to present its plan for reforms by this summer.

For now, every challenge is arduous. Some leaseholders have spent years bringing cases against landlords.

Liam Spender, a lawyer in a different field, who lives at St David's Square and has represented fellow leaseholders there, said the dispute was "an enormous burden of responsibility because I don't want to let my neighbours down".

Still, a bid to remove commissions is unlikely to be the end of the matter. At New Providence Wharf in east London, landlord Ballymore stopped taking insurance commissions after a 2021 FT report. Instead, it has levied a £10,000 placement fee. Marsh, the world's biggest insurance broker, is responsible for finding insurers for the block.

The development's residents' association said it had challenged the £10,000 and requested previous commissions be repaid. Co-chair Karryn Beaumont said: "I can't imagine what Ballymore needs to do to justify the £10,000, let alone the £157,000 they were charging."

Ballymore told the FT it was among the first in the industry to move to a flat fee model and that the work to "scope, prepare, secure and maintain comprehensive insurance cover for large, complex residential buildings is significant". Marsh declined to comment.