Earning consumer trust: The case for better understanding and better behaviours in Protection Insurance.

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1 Executive summary note

This report addresses several themes that dominate the discussion in the life and disability insurance market, also known as the protection insurance market. These are as follows:

1. The need to earn and retain consumer trust and confidence in the market
2. The need to act in customer best interest and grow the market
3. The need to increase access to insurance for those often excluded from the financial protection we offer
4. The need to offer vulnerable customers the quality of service and outcomes they need to be fairly treated, in accordance with the Equality Act
5. The power of data in determining the best route to achieve these goals

All of these are self-evidently inter-dependent, but at present the data being gathered, or at least shared, sheds little light on the effectiveness of current practices, let alone our best way forward. Indeed, we present in this report verbatim evidence that exposes very poor behaviours that act against efforts to achieve the goals above. These arguments and the case for the reform are summarised in Appendix 4, in the form of a short talk and debating points presented to the Protection Review Conference in December 2021.

While even a cursory glance at the evidence in Appendix 1 will reinforce the argument for reform of a significant section of the market, we believe key industry decision makers will need first to understand the volume and harmfulness of the damage being done to consumer outcomes in the protection insurance market if they are to risk changing currently profitable business models in the cause of the consumer. Our key request (in Section 5 below) is thus for a collective exercise that sees the ABI and all insurers urgently gathering and reporting data that is segmented by the key distribution channels that currently form the market. This new knowledge will enable the market to identify where consumer outcomes need improvement most. While the benefits of that alone are obvious, in Section 5 we expand on both the reasons why, and on the benefits to market practitioners, insurers and reinsurers of better understanding the effects on consumers of the different ways product is distributed.

The need for this understanding is very urgent, given the extensive deceptions and consumer harms we evidence through verbatim mystery-shop transcripts, and that these are most evident for those who are vulnerable or who have current health issues. In their current consultation CP21/36, the FCA calls for the monitoring of consumer outcomes, so our request would fit that bill. However, notwithstanding regulation, improving outcomes for these and all consumers must surely be the yardstick for measuring our progress towards the goals above, and our worth as an industry.

This report presents the case for that monitoring of outcomes to be focussed not only on the protection insurance market as a whole, but specifically on the type of buying journey the customer has taken. To achieve better results across the piece, we need first to understand the difference in customer outcomes being achieved in the different distribution channels.

To enable us to clearly benchmark distribution quality and customer outcomes, and thus enable improvement, this paper proposes data points that will provide the insight needed and makes clear that, given the apparent scale of current poor customer outcomes, and the principles and cross cutting rules proposed in the FCA's forthcoming Consumer Duty papers, the protection insurance market needs to act swiftly.

In forming this call to action, the report explains why the Protection Insurance market is very different to the General Insurance market, and why those differences demand that a different regulatory approach is needed to ensure best outcomes. The regulator (while still the FSA) acknowledged this difference as far back as 2009, in its own research

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into oral disclosure rules into CIC, but many of the problems outlined then continue to be pervasive in the market today. Reform could be the outcome of the FCA's new Consumer Duty proposals, though the approach evidenced in CP21/36 means that it might well remain up to the industry to manage what we see as much needed reform of the poorest behaving end of our market.

In summary, then, this report highlights and details extensive poor practice and makes clear the need for reform of one particular section of the protection insurance market if we are to hope to achieve the first 4 goals above and asks that those insurer and reinsurer leaders still doubting that, swiftly gather the evidence needed to be sure of the case either way. And then look beyond the current market to the one that could be, where standards can truly improve and consumer trust be earned because outcomes achieved are as good as they should be, not as poor as can be got away with.

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2 Introduction – A market background

Routinely described by financial planning professionals as 'the cornerstone of any good financial plan', Protection Insurance includes two key product groups. A very large number of people across the UK will buy or own at least one of them at some point during their working lives: these 2 groups are life insurance and disability insurance. (See Appendix 2 for the full list of product types and overlaying purchasing decisions.)

Life insurance is broadly understood by consumers in that 'it pays out if you die'. Disability Insurance, comprising Income Protection products and those paying out only on the diagnosis of a specified Critical Illness, are far less well understood, although they have the potential to pay far more routine regular benefit to all those of working age.

Historically, Protection Insurance products were generally sold by financial advisers rather than general insurance brokers, as they sit naturally alongside the accumulation of wealth as a safety net, the need for them being dictated by an individual's debts and assets and dependencies, rather than the need to protect physical assets such as a home or car.

This pattern was changed in 2012 by the Retail Distribution Review (RDR) which banned the payment of commissions on pensions, savings, and investments, but allowed their continuation in General Insurance and Protection Insurance. Protection Insurance sales have remained at a broadly similar level ever since, but the now fee-charging financial advisers have largely stopped selling protection, their place being taken by a growing group of specialist protection advisers who only sell Protection Insurance products.

As a result, Protection Insurance now sits in a middle ground between financial advice and personal lines General Insurance (GI) and is regulated in the same way as GI. It is a competitive and busy market. Insurers have been shorn their tied salesforces and their ability to use life insurance as a highly profitable investment product by the endowment and PPI mis-selling scandals and the regulator. As a result, they now compete for 'pure' Protection Insurance sales online and through intermediaries.

2.1 Intermediation

The effects of regulation described above, along with the rise of online trading over the same period and changes in wider consumer behaviour, mean that most Protection Insurance is now sold either online or over the phone through the following routes to market:

	Channel
1	Insurers and their tied agents, e.g., Sun Life Over 50's plan, Aviva's Quote Me Happy platform or Barclays for L&G and Lloyds Banking Group for Scottish Widows.
2	Online Aggregators and advertisers, e.g., Moneysupermarket and Compare the Market.
3	Mortgage Brokers, as an add-on sale when arranging a mortgage.
4	Specialist intermediaries mostly telephone based.

In short, it is an overwhelmingly intermediated market, and as with GI, almost all distributor revenues arise from commission paid by the insurers to those they let distribute their products.

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Many commentators have called for the abolition of commission, given its proven propensity to cause distributor misbehaviour, but all consumer surveys have shown that consumer will not pay sufficient fees to cover the costs of arranging what is a voluntary purchase. This is particularly pertinent given the truth that helping vulnerable customers and those with most urgent need to access insurance needs much more intermediary time and expense than those in perfect health, with plenty of wealth.

Furthermore, intermediaries serve a vital part in maintaining a competitive and diverse market in GI and Protection Insurance and commission is their lifeblood. *It is by far the lesser of two evils.* The abolition of commission would mean the end of intermediation. Consumers would have to deal with insurers direct, a market structure that reduces choice and competition and as noted above, has previously caused huge consumer detriment. See Appendix 3 for more detail.

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3 The underlying issue – understanding the difference between GI and Protection Insurance

Protection insurance, now seen in regulatory terms as part of the GI world, is very different to GI.

Unlike GI, where the need for insurance is based on the ownership of an asset, and is thus best renewed annually, Protection Insurance addresses humankind's life-long risk of death or disability. It is thus best arranged over a longer period, say, the 25 years covering your mortgage commitments, or the 20 years you might expect your children to be dependent on you, or the 40 years until you expect to reach retirement age. Long term, relatively unchanging risks require matching products. *From now on this report will call these products and their market Long Term Protection Insurance (LTPI).* They are detailed in Appendix 2, along with the overlaying choices each one needs to be made to arrange it suitably for an individual consumer.

The next big difference between GI and LTPI is the complexity of the risk and the insured item. We all understand that we should insure our homes against fire or flood and our possessions against theft, and the calculation of what we need covered is therefore a relatively simple tallying up of their worth and irreplaceability. With LTPI the numbers are far more subjective. According to the Association of British Insurers (ABI), only 12% of UK adults protect against the risk of disability destroying our earnings. The rest perhaps expect the state, or family or some other coping mechanism to look after them. Many assume that the worst won't happen to them. They don't think they need to insure the risk. You may think them wrong, but the point is made that buying any of the 3 product groups that comprise LTPI is a subjective personal choice as to need and amount, not a mathematical construct.

Which leads on to the third real difference between GI and LTIP: underwriting and pricing complexity. In GI pricing depends on known data. e.g., the type of car and driving record of the driver, the postcode of the house or the local crime rate. The underwriting complexity of LTPI depends on projections of the customer's own future personal health. While there are plenty of indicators of how that might turn out, the huge potential variance means that the known data of the GI world leads to a much narrower range of price and suitability concerns that can be seen in the LTPI market. In LTPI therefore, there is a far greater premium on underwriting and advisory question sets. More questions, or the better asking of them, makes a much bigger difference to price in LTPI than in GI.

Add to that the typically very long term of LTPI policies, and the impact of subjective consumer choices, as well as humans' inevitable ageing and decline in health over the insured period, and the subjective numbers that consumers guess at in terms of risks and liabilities caused by death and disability, and you have a vastly wider range of potential outcomes from an apparently simple transaction than is the case in GI.

The last difference is in consumer attitudes to risk. LTPI protects against rare catastrophe, GI protects against the everyday. Death before retirement happens to relatively few but can cause huge hardship amongst dependents it afflicts. Likewise, the loss of earnings through disability. LTPI is therefore best understood as catastrophe insurance. Perhaps because of the rarity of claim, consumers generally buy it reluctantly, begrudgingly, and only when we are being our most financially responsible. LTPI thus needs to some extent to be sold as well as bought. Only a very small proportion of those who get quotes online will make a purchase relative to the far higher conversion rate of a competent tele adviser or salesperson.

If we accept that insuring your family against your death, or yourself against disability, is a sensible thing for most of us to do, then the regulator and market must encourage the guiding of consumers through the maze of necessary choices and health questions to complete the purchase. This sales process requires an element of persuasion which is largely unnecessary in the GI market.

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LTPI thus needs to be seen as distinct from its neighbours, GI on the less risky side in terms of consumer outcomes, and Pensions, Savings, and Investment on the riskier side. The LTPI Market and its regulation needs to address its specificities in terms of risks and consumer outcomes. If we are to create a genuine outcomes-based model of financial regulation, in which consumer interests are upheld to a satisfactory level, then it is vital that the FCA's current efforts to create a new 'Consumer Duty' form an effective mandating of efforts to realise that goal, specifically in LTPI.

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4 What works well in the current market and what doesn't

As any student of financial services knows, combining commissions – which on long-term contracts can be large (our firm averages around £600 of earnings per policy sold) and persuasive salespeople, increases the risk of poor consumer outcomes. Given we have shown above that commission- and long-term contracts are needed if LTPI is to serve consumers best, it stands to reason that LTPI needs closer regulation than GI, specifically to stop the increased risk of consumer harm. That includes the need to ensure effective means of consumer redress and compensation for those who suffer harm as a result of being sold the wrong products which don't fit with their long-term needs.

This tighter regulatory approach needs to suit the consumer and each of the choices they might make. Happily, there are (only) two broad categories of consumer behaviour.

1. **Self-directed** – there are many consumers who wish to research online and buy LTPI remotely, by themselves, making their own decisions based on information provided, or simply because they know what they want, and they go and buy it. Any market needs to serve those who want to self-serve. They can safely be presumed to accept any risks inherent in their lack of professional knowledge of the sector. They are self-evidently happy taking personal responsibility for the outcomes their actions might cause, even many years down the line. Whatever the outcome, they have made a conscious decision to take responsibility for their choices and to live with the consequences.

2. **Personally Intermediated** – there are many other consumers who feel the need for a human guide to help them make the right decisions. They are asking for help, are opening themselves up to persuasion. Those they trust to guide them need to address that job with care. Their regulator needs to require it of them and when they make mistakes or fail the trusting consumer in other ways, then the Ombudsman needs to compensate the disadvantaged consumer.

The personally intermediated, human interaction channel is split into two parts, created by past regulation. These channels compete with each other, but they do so under very different rules creating an unlevel regulatory playing field. This distorts market behaviours and results in a significant number of consumers being treated unfairly and, in many cases, potentially harmed by the choices they end up making after talking to those selling to them. This claim is evidenced in Appendix 1, by extensive and independently conducted mystery shopping exercises conducted during 2021 and 2022.

According to the regulator's own research, the consumer is often unable to tell the difference between the two channels. When viewed from the consumer's perspective, a nod and a wink might look like advice, even though the regulator says it isn't. As a result, malpractice of one sector drags down standards in the other.

The consumer, who just wants human, rather than website, help in finding a product appropriate for their personal circumstances, finds themselves in a lottery. This lottery depends on which advert they click on, for all appear to the consumer to be the same, but the methodologies among those who regard themselves as non-advisers, can cause the consumer grave harm and thus continuously erode consumer trust. While the new Consumer Duty could, and should, provide the necessary enforcement tool to make that happen, the industry should be using data to understand and improve all aspects of its performance, ahead of potential review and regulation.

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5 The data needed and its potential benefits

Collecting data to better understand how different distribution channels impact on consumers is a fundamental building block in improving consumer outcomes. However, insurers and reinsurers would freely acknowledge that data covering the different distributor experiences is not being aggregated at an industry level. Over several years, distribution quality management (DQM) has been an effective tool in managing persistency and credit risk. As well as reducing exposure to distributors with poor quality business, distribution quality analysis can be used as a positive framework to reward good distributors and to grow business on a profitable basis.

It is also acknowledged that DQM management is not being conducted based on a standardised methodology. For example, some insurers are still unable to segment their portfolio experience by sales journeys i.e., remote vs telesales and advised vs non-advised.

The CP21/36 calls for the monitoring of consumer outcomes and states an expectation that firms should be able to evidence whether customers are receiving good outcomes. The FCA state that in supervising and enforcing the Consumer Duty they will increasingly focus on firms being able to demonstrate the outcomes consumers are getting and that the FCA will be data-led in this approach. This presents us with an opportunity to act collectively as an industry and agree to collect data in a standard format to provide a benchmark for consumer outcomes across each of the 3 current separate retail channels, with the resulting data then segmented between direct, tied, and intermediated sales.

1. **Online/remote sales**
2. **Telephone and face to face non-advised sales**
3. **Telephone and face to face advised sales**

The data points we are calling that each be measured on are the following:

- Overall new business volumes by channel
- Lapse analysis
- Disclosure analysis
- Not Taken Up rates (NTUs) and Cancel from Inceptions rates (CFIs)
- Straight Through Processing rates
- Persistency rates
- Complaints rates
- Claims experience
- Misrepresentation rates
- Supervisory, training and development standards
- Compliant outcomes to mystery shopping audits

Our mystery shopping exercise coupled with the 38% early cancellation rate evidenced below, causes us to suspect that while overall the metrics will be acceptable, in the “Telephone and face to face non-advised sales” channel, specifically the intermediated non-advised telesales channel, they will perform by far the worst. Consequently, our view is that reform of that channel will greatly improve the market overall.

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6 Regulations’ role in encouraging poor sales practice and the increase of poor consumer outcomes

Regulation and the LTPI market need an unequivocal dividing line in regulating those serving consumers who are happy to make their own decisions and those who guide and thus inevitably persuade the more cautious consumer through sales conversations.

But currently the regulator and market use a dividing line that predates online trading and was delivered as part of the RDR to placate the then market dominant bancassurer and insurer tied agency salesforces. In an era when almost all sales of financial services products were conducted face to face, or at least verbally, the new rules allowed some verbal sellers to categorise themselves as non-advisers. In exchange for not making personal recommendations to customers, they were allowed reduced levels of responsibility relative to those who classed themselves as advisers. *In short, a non-adviser using conversation to persuade consumers fell and still falls into the same regulatory category as a website.* In contrast, an adviser bears a far greater duty of care.

The regulator is faced with a major problem in this divided intermediary landscape. The words it invented, and required all financial services markets to use, are simply not understood at all by consumers. It is in effect jargon that achieves the opposite of what it was intended to do, because the consumer attaches at least the same value to the lesser service of guidance (also known as non-advice) as they do to ‘advice’ as it is defined by the FCA.

This major problem was first identified by the regulator over 13 years ago when the FSA published a piece of consumer research on “Post implementation review of ICOBS: Oral Disclosure Rule in sales of Critical Illness Cover”. The key finding revealed:

“Serious areas of misunderstanding among consumers about their [Life Insurance] policy. This reflects the research findings that consumers place a great deal of reliance and trust in what they are told by salespeople and advisors and they often do not have sufficient prior knowledge of the product nor the confidence to ask questions for clarification.”

Over the last decade, the regulator has failed to take the necessary steps needed to better protect consumers of these risks, which continue be pervasive amongst the non-advised market as our mystery shopping exercise revealed.

However, there is a simple solution, which can easily sit alongside the consumer’s increasing preference to trade online. It is to end the arbitrary – and wholly unnecessary – divide that regulation has created within the intermediary market. End the unlevel playing field and stop deliberately confusing consumers who are merely searching for human guidance.

Nowadays, if you want to help yourself, you buy online. And if you open yourself up to persuasion you clearly need the persuaders to take responsibility for what they say to you. Or in other words, everyone providing guidance should be subject to the same rules applying to what the FCA describes as advice. The current regulations reduce the non-advisers’ responsibilities in ways which harm consumers:

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	Market failures created by regulation
1	**Lowering consumer protection** – Non advisers do not need to explain to their customers that, in buying without 'advice', they forfeit almost all right of recourse to the Ombudsman and the Financial Services Compensation Scheme, should things go wrong.
2	**Lower skills and market knowledge** - As a result, the salesperson has no need of product knowledge or selection skills, or even to get to know the customer, and thus has need only to have received sales and compliance training, rather than anything more useful to the uncertain consumer.
3	**Greater market churn** - Non advisers are well within their rights to 'churn' good policies for worse ones if they are careful to make no specific recommendations. This is their routine work and highly damaging to the reputation of LTPI.
4	**Compliance driven use of language and jargon** - Non advisers can use 'magic words' whose meaning is understood by compliance officers and by default or omission the FCA, to create the impression of getting advice in the customer's mind while not taking responsibility for it. The meaning of words like these is lost on the consumers they affect. a. I'm not advising you, just giving you the facts and letting you make your mind up. b. People like you often buy…. c. Most people choose….
5	**Failure to make important disclosures** – Non advisers do not need to define themselves by the size of their insurer panel. Indeed, the reduction of choice serves to directly increase the rate of commission received. This systemic regulatory fault is increasingly being replicated amongst advisers but has long been endemic amongst non-advisers of all sizes.

The combination of these tolerances has long meant that the non-advised route has been the 1st choice of newcomers to the protection market for those seeking quick profits with minimal regulatory impact, such as those many businesses previously focussed on PPI claims handling. The financial advantages of being able to run a full-on boiler-room sales operation, focused on making sales rather than doing the right thing for consumers, have always delivered a fringe of rogues to the LTPI market.

The FCA has expressly asked insurers not to give agencies to such operators, but insurers have been unable to resist the sales volumes on offer and have focussed on managing the situation to avoid regulatory action, rather than seek to genuinely improve consumer outcomes. While advisers in the market routinely swap stories told to them by abused consumers, it takes mystery shopping to understand the true scale of hard-sell, deception, and the encouragement of non-disclosure that a boiler-room culture dictates.

The clearest proof that these are endemic is in the number of customers cancelling recently bought policies. It has always been true in financial services that the higher the early lapse rate is, the more hard-sell and unsuitable the sales process being used. But even truly shocking year immediate cancellation and year 1 lapse rates, estimated at a combined 38% for non-advised telesales by the reinsurer SCOR - can be made to look better by blending them with sales made by advisers where lapse rates of less than 14% are commonplace.

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6.1 Preventing the mistakes made in the past

The situation in LTPI is now reminiscent of previous scandals in financial services:

- A fringe malpractice allowed by the unintended consequences of previous regulatory change, eventually reaches scale.
- The consequent growing business volumes cause insurers to either ignore, or find reasons to tolerate, egregious sales behaviours. Profits on both sides rise and rise.
- While many in the market know what's going on, they fear regulatory attention more than the ongoing malpractice, and it is only when all can see that that malpractice is growing to dominate the market that those practitioners calling for reform begin to be listened to with care, rather than being simply accused of anti-competitive behaviour and ignored.
- Eventually, the regulator investigates the matter deeply enough to understand it and either demands reform, as in the Mortgage Market Review, or, where the product itself it the root cause, as with endowments and PPI, shuts down the market entirely.

The FCA has yet to consider LTPI sales a market in need of review or reform, given that mis-selling of our generally undersold products does not have the potential to cause consumers much visible harm (relative to mis-sold pensions, say) and the consumer complaints we cause are relatively few. That was true for many years of PPI and endowments too. LTPI is catastrophe insurance, most who buy it will not claim on it. Those who do will be grateful for what they get, not angry at what they or their partner were never told. And who blames a salesperson for what they *didn't* sell or even raise as a concept? Market professionals know how badly consumers are being served, consumers don't have this insight.

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7 The opportunity in the FCA's Consumer Duty and how it looks like it will be missed

On first reading, the FCA's Consultation Paper CP21/13 introducing the concept of the Consumer Duty, seemed to be tailor-made to stopping the abuses of the non-advised LTPI market and forcing insurers to take responsibility for the worst behaviours of those who sold their products.

In practice CP21/36 follows up by clarifying that the regulator's requirement is the adherence to principles, supported by very general rules. In the end it remains up to compliance officers to interpret what that means, which leaves the judgement to the FCA enforcement teams.

It's hard to think these teams will be empowered by these new principles any more than they have been by the previous iterations of principles-based regulation, the Treating Customers Fairly (TCF) requirements, the Senior Managers conduct regime and the Insurance Distribution Directive.

All these have left the FCA's enforcement team unable to drive reform, to the extent where it is compliance officers that define good practice as including all those behaviours described in Appendix 3 and Appendix 4 and listed after a small sampling in Appendix 1. Despite estimating "the total one-off direct costs firms may incur to comply with the Consumer Duty to be in the range of £688.6m to £2.4bn, and the ongoing annual direct costs to be in the range of £74.0m to £176.2m (per annum)", we fear it is most likely that in LTPI the new duty will have no effect and non-advising telesellers will continue to operate as hard-sell boiler rooms, tolerated by insurers who give them agency in return for new business volumes.

Please ask hannaheborall@lifesearch.co.uk for LifeSearch's submission to the FCA's call for further feedback to better understand our fears as to the extent of the Consumer Duty's likely failure to deliver meaningful improvement.

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8 What a new market could look like

There is no reason why reform should shrink the LTPI market. Quite the opposite, years of growth in non-advised sales and a lack of growth overall indicate that reform is what is needed to lay the ground for real progress in protecting consumers from the small, but very real chance of personal catastrophe.

Those who sell without responsibility can easily remodel their training to enable advice, indeed, the most forward thinking already are. And a market where consumers can be sure of consistent treatment from those they speak to, is one that can far more easily grow. And become one whose standards can be raised through professional qualifications and the routine signposting to specialist colleagues when cases get complex.

As online trading becomes ever more effective, and better at overcoming the LTPI consumer's peculiar and ongoing reluctance to spend money protecting against unexpected catastrophe, so the role of telephone advice will naturally focus on helping those who need it most. Vulnerable customers and those with more complex needs.

But make no mistake, effective online trading across LTPI is a long way off. The inherent complexities of personal health risk mean that all consumers are potentially better off taking advice, though the wishes of many not to do so must be respected and fulfilled, online or by call centre teams that either help customers complete the online process as they intended to or refer the customer to an adviser when the reasons for the customer dropping out need a detailed explanation.

Apart from the fallacy that improving what happens to customers ever shrinks a market, the other defence of non-advised teleselling is that it offers consumers choice as to whether to buy with advice or not. But in practice non-advised telesales is not a visible choice and never has been. Non-advice does not advertise itself as that. Words that imply advice, like 'guide' 'compare' and 'buy-with-confidence' are used to attract customers.

Consumers end up in a process not of their choosing, but of the advertiser's. It is websites that definitively offer the choice of simple easy purchase, and customers who want to buy by themselves, already choose to trade online. *Non-advised telesales offer only a concealed route to a service that feels like advice, because it is, in every sense other than the regulator's dated definition, which consumers have never understood the meaning of.*

Non-advisers can easily be trained to be advisers, we estimate that a well-run compliant non-adviser could convert entirely to advice within 3 months, far less that the regulator might demand. Protection advice can be complex, but for the vast majority it can be very straightforward. Mistakes can still be made, but advice comes with the safety net of the Financial Ombudsman's Service.

Advice quality in LTPI is routinely found to be patchy. Distribution is still dominated by small firms and those, like mortgage brokers, making the sale as a secondary one. Standards can far more easily be improved if advisers are no-longer forced to compete with those who enjoy far less regulatory burden and yet enjoy the same or sometimes higher commissions, through use of micro panels, rather than any reflection of the quality of customer outcome achieved.

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9 Appendix

9.1 Appendix 1 – Examples of flagrant and negligent non-adviser behaviours – consumer mystery shopping exercise

To showcase evidence of the everyday occurrence of egregious behaviour that takes place across the marketplace, LifeSearch commissioned Cicero/AMO, an independent market research agency, to undertake a series of Mystery Shopping experiences across key life insurance intermediaries in the UK.

Mystery shops took place on numerous occasions over the last year, during January 2022 and February and March of 2021. In total, more than 20 mystery shops were conducted across a range of risk profiles. Evidence below is lifted directly from transcripts of calls with non-advised salespeople.

Mystery Shopping revealed market-wide evidence of market failure to the consumer's detriment. Non-advisors push their customers towards the product they are best placed to sell, and in the process say things which simply aren't factually correct.

Consumers being coached to agree to demands and needs which suit the product being offered, rather than selecting a product which meets their demands and needs

Pervasive throughout the mystery shops was an attempt to extend the scope of cover by non-advised salespeople, often deliberately straying into financial advice. Coaching customers during the sales process is typically motivated by a desire to secure a sale and to upsell protection cover which may result in non-advisers pushing products that do not achieve the right customer outcome. The fact-finding questions are also frequently used to extend the scope of the conversation and the value of the potential quote.

That takes the form of expanding the length of term of the policy or upselling the client by suggesting other policies. They all blur the distinction between sales and advice without making it clear what that distinction means when it comes to making complaints and having means of redress through the Ombudsman.

After calling **specifically to enquire about life insurance to cover the mortgage**, shoppers were met with further questioning which strayed well into the realms of providing advice and guidance about products which serve different needs:

> "I mean you're married, are you thinking about having children, starting a family? Critical Illness cover basically pays out tax-free lump sum if you're diagnosed with one of the pre-set illnesses, such as cancer, heart attack or stroke, as well as many other conditions. Now with it, many of our customers choose this option, because it also pays out a lump sum if their child was to become critically ill."
> Non-advised Salesperson

> "What provisions do you and your wife currently have in place to protect yourself from illness?"
> Non-advised Salesperson

> "Have you thought about Critical illness cover at some point? We don't talk people into stuff, it is just because we have it available as an option here. If someone were to have cancer, heart attack, stroke, not something to think about, it is a cash injection tax-free that is dumped into the bank account to help people through it. People survive cancer a lot more than they used to do so 20 years ago, so it is there if you need."
> Non-advised Salesperson

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> “What many of our customers will do and, indeed, quite a good way of keeping the costs down a bit is essentially splitting the cover in two, covering the mortgage part with a decreasing term policy, just to get it covered in the most affordable way, and taking the remaining amount with a separate level term lump sum, so that part stays enough for your family to do with as you'd want them to, really.”
> Non-advised Salesperson

Transparency regarding the nature of the call and FCA authorisation and regulation

To ensure that customers are made fully aware of their regulatory protection, it is important that the salesperson fully discloses their status and the nature of their service during the telephone discussion. However, disclosures are made in an inconsistent way across the different mystery shops.

Whilst some non-advised salespeople were prompt to disclose – within the first 2 minutes – that the call would be information based and not offer advice, this was not common practice across all non-advised salespeople. On one occasion a non-advised salesperson did not disclose the nature of their service until 36 minutes into the call.

On all occasions, non-advisers did read out a legal statement to explain that they were not providing financial advice. However, this disclosure is done in a way which is more concerned with protecting the non-advised salesperson against FCA compliance and less concerned about ensuring clients are properly protected. It is purely compliance driven, not at all customer-centric.

No effort is made to communicate to customers the importance of that disclosure in affecting the customers right to redress via the Ombudsman. It is also provided in a manner which is designed to downplay the importance of the disclosure, typically dismissing it as mere legal jargon. In a call which might take an hour, the non-advisor typically spends around 20-30 seconds explaining the limitations of their service and how that impacts on consumer protection:

> “Excuse me for 20 seconds, I might have to sound like a robot and read out the legal bit”
> Non-advised Salesperson

> “Now comes the legal stuff, ha ha, I will explain it as quickly as possible”
> Non-advised Salesperson

Sales tactics and other techniques to make a sale on an unsure customer

During multiple shopping experiences, subtle prompts were used by non-advised salespeople to influence the purchase decision-making of the shopper. Suggesting that more expensive policies would provide additional piece of mind – whether it was necessary or not – and even adding arbitrary amounts without reason. Efforts to increase the sum assured were commonly deployed, often with no indication as to why the additional cover would be beneficial to the customer.

> “You can just add on to the policy out of curiosity, perhaps 25 or even 50 grand. It's obviously not set in stone”
> Non-advised Salesperson

> "It's just an option. I mean, you know, for an extra quid a week, you know, a bit more peace of mind."
> Non-advised Salesperson*

> “You could just add on another £50,000. It would all be very simple”

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Non-advised Salesperson

Pressure tactics are used on a widespread basis to make customers believe that they are getting a time limited offer which won't be available even a few weeks later.

> "You can get a policy now that's seven quid. In a year, it will have gone up because the prices go up every fortnight"
> Non-advised Salesperson

Nudge terms were also used by non-advised salespeople to help convert a lead. The comments below are examples that were commonplace throughout mystery shops and clearly do not represent an information-only service:

> "And just to be completely transparent, our telephone service can be marginally different from the prices on our website, the reason for this is that over the phone we can offer other policy options and the peace of mind the product you've chosen is the right one for you."
> Non-advised Salesperson

> "We give you the guidance you need so you have the peace of mind"
> Non-advised Salesperson

> "So, what many of our customers will do and, indeed, quite a good way of keeping the costs down a bit is essentially splitting the cover in two, covering the mortgage part with a decreasing term policy.."
> Non-advised Salesperson

Tying the customer into the purchasing processes was also a trick used by non-advised salespeople. On more than one occasion during the range of mystery shops, attempts were made to overtly lure direct debit details from potential customers before they had even had sight of a policy:

> "The first thing the Insurer would ask is when do you prefer to have your direct debits taken"
> Non-advised Salesperson

On this occasion, the shopper in question had a range of complications related to their physical and mental health. After the mystery shopper outlined their reluctance the pass over their direct debit details the non-advised Salesperson then returned with:

> "Because of the medical conditions that you've mentioned, we need to actually get it approved and in order to do that because of the (GP) medical report we would seek some commitment from yourself because we would pay for the medical report.
> Non-advised Salesperson

Not only is this simply untrue, as it is the insurer themselves that would pay for the report, the wider motivation to tie the customer into the sales process is clear to see.

Perhaps the most obviously egregious practice related to the volume of follow-up calls aimed at getting the customer to make a quick decision in parting with their cash. Whilst it is natural to expect a follow-up call, mystery shoppers were inundated with high volumes of follow-up calls and voicemails from salespeople to keep the lead alive. In some cases, customers were receiving multiple call backs an hour, with one receiving 20 calls in the space of a single day.

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No effort to signpost where necessary leaves vulnerable customers dangerously exposed and under-insured

It is vulnerable customers who are most exposed to the shortcomings of non-advised salespeople. Our mystery shops found that those with more complex physical or mental health conditions are not being clearly signposted by non-advised salespeople.

In one such example, one of our mystery shoppers with Type 2 diabetes was told there were no options available to them:

> “It’s not something you're gonna be able to get, unfortunately, with Type 2 diabetes”
> Non-advised Salesperson

> “The concern from insurers is that it can cause a lot of other health problems. If it's something quite specific, they tend to apply an exclusion. If you had a hearing condition, they'd exclude deafness as a condition. With diabetes, there's a lot of conditions that can be attributed to it, and they'd end up excluding half the policy, so yes, that's the reason for it.”
> Non-advised Salesperson.

> “By the looks of it, you're not gonna really get the critical illness cover due to conditions around the type 2 Diabetes. So, none of the insurance companies will be able to come back and offer you cover for that.”
> Non-advised Salesperson “

In another example, a shopper with a history of mental health issues was told that cover would not be possible.

> “If you have considered suicide in the last five years, insurers won’t cover you”
> Non-advised Salesperson

> “Insurers won’t cover you for your mental health, but I can still cover you against cancer, heart disease and stroke, which are the big risks you are likely to face”
> Non-advised Salesperson

It is clear from this evidence that non-advised salespeople are not adhering to the industry guidance on signposting customers to advised routes if they cannot meet or service the customer’s needs. Customers either end up being talked into taking out an inferior product or they end up purchasing nothing at all. In each of these cases, we subsequently asked a specialist protection advisor to find appropriate cover and they were able to do so successfully.

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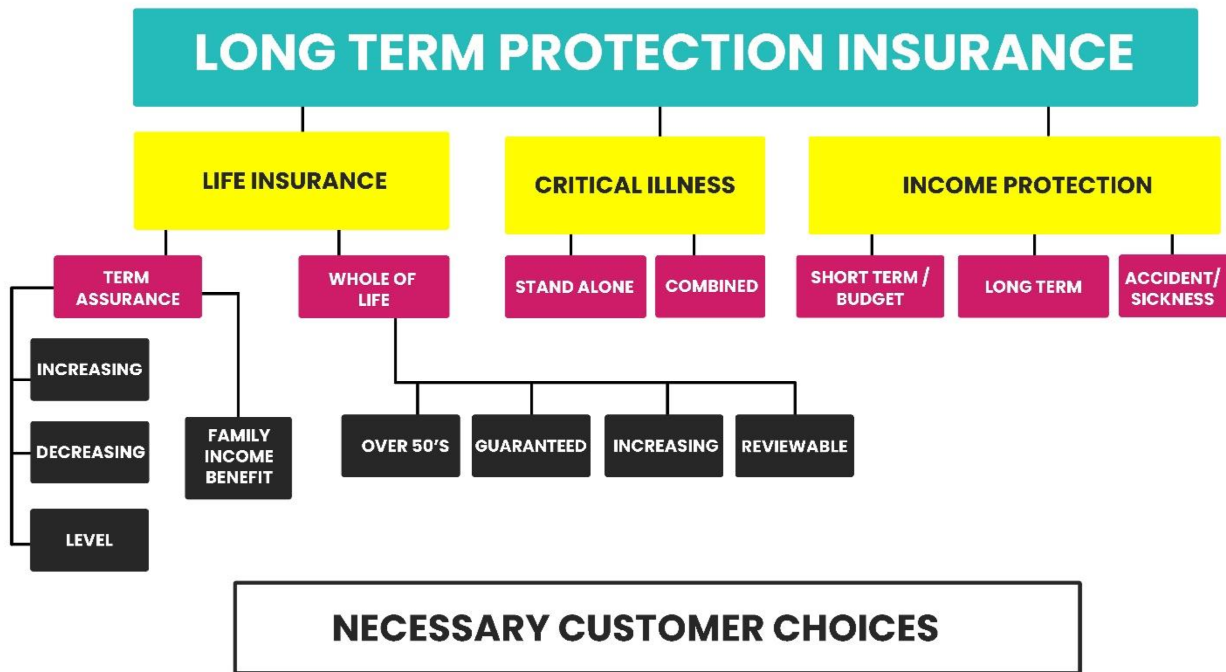
9.2 Appendix 2 – The range of Long-Term Protection Insurance Products each consumer should consider

Consumers doing the job of protecting themselves and the families are naturally addressing a range of risks and are thus faced with a range of choices, and overlaid decisions. The visual below captures the range of overlaying decisions a consumer will potentially face in their purchase journey:



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9.3 Appendix 3 – Commission, Full Picture

In a dream-world where all understood the importance of arranging the right insurances and the value of the service that does that, consumers would be prepared to pay viable fees for this service and the advice that enables it. But few appreciate the often difficult and complex nature of advising on even seemingly straightforward situations, not to mention the complexities of achieving fairness in underwriting human morbidity and mortality.

In practice, in both GI and LTPI markets consumers are not prepared to pay fees, because they do not understand these necessary complexities. A successfully intermediated insurance market is not practically achievable. On the other hand, consumers are happy to pay commissions, because they can see the price they pay in monthly premium and deem that a fair price for the monetary benefits their policy will potentially provide. A competitive market, and LTPI is extremely competitive, will ensure that the consumer is right. Unless the seller misleads them of course. That is the temptation commission causes and the issue regulation needs to address with clarity.

Because LTPI products are long term they carry a higher £ for £ commission coupon than short term GI products, but that commission is a one off, because the policy is not annually repeating. In the end, the commission paid over the years is generally less than that paid in the GI market, and evidentially too low to allow quality independent distribution to lead the market and its manufacturers. The latter retain by far the greatest share of profit and distribution therefore remains disparate and underfunded and very under-advertised and marketed.

LTPI commission is generally paid by the insurer to the intermediary as a lump sum soon after a policy goes on risk. This is known as indemnity commission, as the receiving distributor has to indemnify the insurer against the early lapse of the policy, and repay commission received should the policy lapse in its early years. The amount 'owed' generally drops from 100% to 0% over 4 years. In a growing minority of cases the commission is taken in 48 equal payments over those 4 years. This 'non-indemnity commission' is generally chosen for one of three very different reasons.

1. The distributor can get a higher rate of commission because the insurer's indemnity risk is lost, and their cash flow improved.
2. The insurer believes the distributor likely to suffer high policy lapse rates and or imminent insolvency and refuses the indemnity risk.
3. The distributor has access to other sources of capital and can bear the long earnings period while still funding any desired growth.

The key benefit of the indemnity commission model is that distributors have access to immediate credit on each sale, from well capitalised insurers who are naturally supportive lenders. It allows for a vibrant distribution market including many start-ups and small businesses.

The key disadvantage is that indemnity commission looks very attractive to those with little knowledge of consumer behaviours in the LTPI market and many opportunists enter the market as a means of getting rich quick. Around the fringes, foul-practice is thus endemic. Some insurers have improved of late in weeding out the worst offenders, but still focus on financial viability rather than consumer outcomes caused. Of late, well-capitalised distributors have entered the market via non-indemnity commission routes. This has not meant any improvement in the customer outcomes they create.

In short, indemnity commissions enable the market, but also mean that it needs to be more strictly regulated in terms of its behaviours, particularly in channels that intentionally disabled the Ombudsman from providing restitution.

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9.4 Appendix 4 - Speech and Debating points made to the Protection Review Conference 12/21

Our market should start and end with the consumer.
Imagine please that standing next to me is Marsha, a woman in her mid-30's and in front of her are two children.
A friend passed away recently, so Marsha has taken on the job of sorting out some life cover.
So, she does what most everyone does. She Googles it.

And what does our market, this room, collectively so keen to be trusted and seen to be doing good, offer Marsha?
Well, it offers her a hidden lottery,
a game she has every chance of losing,
for she has *no* real chance of knowing the rules.

How do we do this?

Because as she looks at the list of Google advertisers and makes her choice as to which one to engage with, she hasn't a clue that 1 of 3 very different things is going to happen to her.

.

Thing 1 happens if she chooses a price comparison site, or insurer or bank. She'll find lots of useful information if she wants it. And if she answers a few questions, she'll get a price or choice of prices and if she wants to buy, a few minutes later she has her cover in the same way she buys the kids' clothes.

Marsha knows she doesn't know it all, but she's happy she's made her own choices and she gets that 'on her own head be it'.
Oh, and by the way, if she doesn't feel confident making that decision, then the 2 biggest price comparison sites and increasingly the insurers and banks too, offer very clear signposts to a thoroughly vetted protection adviser who can answer all her questions and make sure she gets it right.
Thing 1 works OK for Marsha, whether she's keen to move fast, or keen to get it right for sure.

Thing 2 happens if she clicks on an ad that turns out to be an adviser as defined by the FCA (not that any consumer would ever really know the importance to them of that phrase!).
If she happens to click on an advisers' ad, she will end up talking to someone who will ask her why she is thinking about life insurance, and some questions about her situation, and will offer her their advice and arrange policies as she wishes.
Sometimes it's all very simple and sometimes it gets more complex. Crucially though, if that adviser gets things wrong, then when Marsha or her family find that they were mis-sold in some way, they can seek full redress from a fully empowered, willing, and able Financial Services Ombudsman.
Marsha and co really are properly protected the moment they deal with an advertiser who is an adviser.

But thing 3 is where, as a market, we fail Marsha and 1000's of others a week.
For thing 3 sounds and feels deceptively the same as thing 2 and yet is totally different. That's the trick our market pulls on Marsha.
For if she clicks on most of the ads, she'll be talking to a thing she's never even heard of, a "telesales non-adviser".

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A salesperson who *seems just like an adviser*: he too asks her why she's making enquiries and gets into a bit of detail with her as to what she might want, and then also proposes solutions, along the way, reading out words that explain that he's not advising, he's simply giving her the facts and letting her make her own choice.
Of course, that sounds great to Marsha, so she buys what they sell. Not realising that they sell it with no duty of care as to the outcomes they cause her and her children.

The reason our market cannot ever be trusted by consumers is that thing 3 appears to any consumer to be the same as thing 2, but in thing 3, if the teleseller mis-sells to Marsha, then when she or her family realise that they didn't get what they needed,
they get almost no right to the ombudsman's protection.
The non-advice firm will successfully defend itself by saying
they did not give advice,
the decision to buy what she bought was Marsha's alone.

That's how our market tricks consumers,
it compliantly denies them the ombudsman's protection by using words that sound harmless, but carry a hidden meaning
consumers only find out about when it's far too late.

Why do we let consumers talk to persuasive salespeople?
fully trained in compliant wording and sales skills,
but crucially with no need whatsoever to get the right outcome for Marsha?
No imperative except the very urgent one of hitting their sales targets in an environment designed specifically to make the most money possible out of Marsha
by exploiting a regulatory loophole.

How can we as a market seek to be trusted when we let down 1000's of consumers like that every week?
.
When non-advice was invented to placate the soon to be disgraced tied salesforces, technology offered no quick and easy self-serve alternative to speaking to someone.
But, nowadays, Marsha can happily trade online, knowing she is making her own decisions, not fondly believing a persuasive salesperson has her best interests at heart, when he's just desperately trying to hit his sales target and earn some money.

Thing 3 is not fit for purpose,

it serves no part of the market other, honest; methods cannot reach and is thus redundant and needs to be retired.
If you seek to persuade people of things, to treat a customer fairly, you need to accept responsibility for the outcomes your persuasion causes.
Only then can our market start to be trusted and to improve and to grow the good that it does.

Thank you.

'This debate is not about particular firms; it is about customer outcomes.'

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Oh yes, the whole tribe causes detriment! The bigger they are the more they cause is all.
You can tell that because when customers buy what's not right for them,
the ones who realise that, change their mind.
So it's the 1st year lapse data that give the clearest insight into what's going on in the sales process. We asked a reinsurer to provide us with a comparison of a telephony-non-advised portfolio of policies versus a telephony advised one.

Telephone Non-Advised:
CFI Rate ~ 20%, yr1 lapses ~ 18%,

Telephone advised:
CFI Rate ~ 6%, Yr1 lapses ~ 8%,

'Customers need choice as to the channel they buy through.'
Customers don't choose non advice! They respond to an ad
and get it whether they want it or not.
They get it if they know nothing other than they think they might want some life cover.

'People who know what they want seek a quick and easy service, not a long tedious advice session.'

Every non-advised call I've listened to took over 20 minutes to get to underwriting stage and was chock full of advice aka guidance,
just not a fact find.
Which if you think about it makes the advice or guidance given
certain to be nonsense.

In fact the ones where the caller knew what they wanted to buy often took longest as they were seen as prime targets and subjected to endless persuasive words aimed at inflating the sale. All the persuasion is of course delivered without a duty of care as to the outcome.

Advisers can and do serve clients who demand an execution only service. It can be a very fast process, it just gets followed up by a disclaimer and an offer to do a proper job when and if the customer wants. Those who want quick and easy can be served by advice.

'There is no detriment caused, they wanted life cover they got life cover.'

How come a tele-non-adviser has 89 pages of entries on Trustpilot where every single one praises their advice?
If they are a young family, they would likely be best served by life cover in the form of Family Income Benefit, which non advice excludes. Likewise if they are a company director they should consider Relevant Life Cover, any knowledge of which non-advice denies them.
Protection Insurance is holistic body of covers that should be dependent on the customer's needs not the sales channel they fall into. Most every consumer asking about Life Insurance will also have a need for Disability Insurance, yet non-advising telesellers never raise the issue. Even when it is raised it is batted away, being likely to slow the sale.

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'Guidance is a legitimate way of helping people make decisions.'

Online it is fine, offline on the phone it becomes, every time, just persuasive selling.

If you self-help online, you instinctively understand that it's all your decision. If you talk to someone who appears to know more than you, you rely on them.
They dupe you, because they appear to have a duty of care, but they don't.

'There are good and bad non-advisers and good and bad advisers too.'

Some non-advisers may cause less detriment than others, but ALL cause the detriments I've described.

The FCA has said that a good culture is the key to good customer outcomes.
A sales culture naturally poisons consumer outcomes. It always has.
Recruits routinely say their non-advising experience took place in rooms that were like 'Wolf of Wall Street'.

Why would our industry want that model to become dominant?

Insurers report that the average non-advised start up survives for 36 months before lapse rates and claw back swamp it. Very often the principles find a way of swiftly returning to the market free of previous liabilities.

Maybe bigger non-advisers are on a visible journey to get better at selling responsibly. It's just that the logical endpoint of that journey is advice, and the regulator should simply ask us to get there next year.
It's perfectly doable, though it does make one less profitable.

'**Consumers just want life insurance.'**

Marsha is only told what the persuasive salesman wants Marsha to hear. He has no duty of care other than to his compliance officer.
She will not learn of Income Protection, though she may be sold Critical Illness Cover instead, though how a compliance officer allows that without advice or offering IP is beyond me.

How, given non-advice is protection's fastest growing sector, can we ever grow income protection sales unless they can somehow be tortuously squeezed through the same loophole? And who would that serve? Not Marsha, only the persuasive sellers! And the very few highest bidder insurers they send all their business to.

She may well buy Term Insurance, but never what often serves a young family better, Family Income Benefit.

'The market will shrink without telesales-non-advice'

There is a reason our market does not grow overall; it is that consumers are right not to trust it while these abuses occur.

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And can you imagine a non-adviser deciding to leave a decent policy as it stands? Churn is a key ability of those not held responsible for the outcomes they cause.

We can have as many conferences about improving our market as we like, but in the end telesales non-advice is more profitable and lower risk to supply than advice, so in time it will grow, and advice will shrink.

A regulator's purpose is to shape its market to serve consumers best. In protection. regulation allows more money to be made more safely by those who have no duty to achieve the right consumer outcomes.

Reform Thing 3 and consumers can know that if they buy online they make their own decisions, and if they speak to someone about what they need, our market takes responsibility for the outcomes we talk them into.

From that fair open and honest base-line consumers can grow to trust us, and our market can ever improve and grow the good that we do.

'and finally…'

An independent review of the 5 biggest non-advisers conducted by Cicero Consulting, whose Chair Iain Anderson you heard this morning, demonstrated the following routine failures.

1. Consumers selecting products which were not the most appropriate
2. Non-advisers using facts selectively to drive consumer decision making
3. Non-advisers describing a very limited choice of insurers as being a comprehensive panel.
4. Consumer demands and needs going unmet
5. Consumers being coached to agree to demands and needs which suit the product being offered, rather than selecting a product which meets their demands and needs
6. Consumers exposed to pressure selling techniques
7. Non-advisers failing to clearly disclose their status as non-advisers, leading to consumers to not knowing that what they were hearing wasn't advice
8. Consumers clearly feeling well guided, despite not being told vital information about more appropriate products

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