

# **Evaluating the impact of the OFT's consumer enforcement case against Foxtons in respect of commission terms in letting agreements**

Prepared by the Office of Fair Trading

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# 1 EXECUTIVE SUMMARY

## Introduction

1.1 The mission of the Office of Fair Trading (OFT) is to make markets work well for consumers. In fulfilling its mission, the OFT is committed to evaluating the impact of its work for two purposes:

- **External accountability:** to evaluate whether the OFT delivers its objectives and does so cost effectively to the taxpayer<sup>1</sup>
- **Internal management:** to use formal evaluation of past work to inform future OFT work and choice of intervention methods and processes.

1.2 This report seeks to evaluate the impact of the OFT's case against Foxtons,<sup>2</sup> an estate agency offering letting, buying/selling and property management services in London and Surrey.<sup>3</sup> The OFT challenged the fairness of three kinds of terms in Foxtons' letting agreements with 'consumer landlords':<sup>4</sup>

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<sup>1</sup> This includes a business plan impact indicator to estimate the direct savings to consumers from the OFT' activities and associated benefit to cost ratio (see [www.oft.gov.uk/about-the-oft/oft-structure/accountability/business-plan](http://www.oft.gov.uk/about-the-oft/oft-structure/accountability/business-plan))

<sup>2</sup> OFT v Foxtons Limited [2009] EWHC 1681 (Ch). In this report we refer to the Foxtons enforcement case interchangeably as the Foxtons case, intervention or enforcement action.

<sup>3</sup> Letting agents act as intermediaries between landlords and tenants in arranging the rental of residential property. Some agents who provide a lettings (or lettings and management) service also provide estate agency services (that is, arrange the buying and selling of property), while other agents provide a lettings (or lettings and management) service only.

<sup>4</sup> A landlord may or may not be considered a consumer for legal purposes depending on the circumstances in each case. A consumer is an individual, not a company, and in letting his property is acting 'for purposes outside his trade, business or profession' (see <http://www.oft.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas>). Consumer landlords are likely to include individuals who let out their property whilst travelling abroad; who let out part of their property in order to fund their mortgage; or whose property investment represents part of their pension plan or other long term saving.

- **Renewal commission terms:** Terms which provided that commission shall be paid to Foxtons on renewals, continuations and extensions of a tenancy – even where the person renewing the tenancy is not the tenant that Foxtons originally introduced.
- **Third party renewal commission terms:** These terms covered the situation where the landlord sold the property with the tenant still in it to a third party. If the new landlord wished to let the tenant stay in the property when the period of the tenancy had expired, the old landlord would still have to pay Foxtons’ commission – for as long as the tenant stayed in occupation, unless the new owner of the property could be persuaded to take on the responsibility for paying the renewal commission.
- **Sales commission terms:** Terms which provided that a full estate agency commission shall be paid to Foxtons in the event of a sale of the property by the landlord to the tenant.<sup>5</sup>

1.3 The OFT’s intervention initially involved consultation with Foxtons in an attempt to secure voluntary compliance. When unsuccessful, the OFT issued high court proceedings against Foxtons under the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs). The Judge ruled that all of the terms which OFT challenged were unfair under the UTCCRs and ordered that Foxtons refrain from using or relying upon such terms (or terms of like effect) in its letting agreements with consumer landlords.

1.4 In summary, the ruling and Order prohibit the use of sales commission and third party renewal commission in Foxtons’ letting contracts and require that where renewal commission is to be charged, it must be transparent and clearly brought to the attention of the consumer. The liability to pay the commission, the circumstances in which it is payable and the amount or rate of commission must be clear and actively flagged up to the consumer. The terms must be in plain and

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<sup>5</sup> Source: Foxtons Q&As. [www.offt.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas](http://www.offt.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas)

intelligible language, so that the consumer can understand the nature and extent of their liabilities.

- 1.5 The OFT subsequently wrote to a number of letting agents and industry bodies to draw their attention to the court order, and to confirm that it expected letting agents to comply with the law as set out in the Foxtons Judgment. For more information on the case and its timetable see Annexe A.
- 1.6 This evaluation aims to examine the impact of the OFT's Foxtons intervention,<sup>6</sup> with a view to estimating the benefits delivered to consumers. The study seeks on the basis of extrapolation and informed assumptions to measure intervention outcomes for consumers. In so doing, it examines a number of impacts arising from the case, considering both financial impacts and wider effects through deterrence and the dynamic effects that result for consumers.

### **Approach**

- 1.7 In estimating the impact arising from the Foxtons case, the evaluation draws on a number of different data sources, including surveys of landlords and letting agents commissioned by the OFT and conducted by IFF Research Ltd in February 2011.<sup>7</sup> These surveys were designed to enable the awareness, attitudes and behaviour of both groups to be compared and contrasted, with findings informing the approach to impact estimation adopted. A separate report by IFF Research on survey methodology and findings is published to accompany this report.
- 1.8 Key variables from these different data sources are used to inform a series of calculations that produce quantitative savings estimates arising from the Foxtons case. Such calculations are undertaken on the

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<sup>6</sup> Intervention here refers to the Foxtons case itself and the follow up work undertaken by the OFT.

<sup>7</sup>The surveys undertaken by IFF Research comprised a telephone survey of 800 letting agents and interviews with approximately 1000 consumer landlords, conducted through an online survey. See Chapter 2 and the accompanying Annexe to this report for more information on the approach undertaken by IFF Research.

basis that Foxtons would have continued to use the aforementioned terms without OFT's intervention and as such our counterfactual is that the market would have stayed as it was, with Foxtons continuing to use the terms OFT challenged.

## Evaluation findings

- 1.9 The Foxtons case has resulted in positive benefits for consumers, delivering an overall annual benefit of at least **£4.4 million**. This is an approximate monetary estimate and should be viewed as an estimate of the order of magnitude of the benefits for consumers. It is also, however, a conservative estimate given there are other observable (but unquantifiable) indirect impacts that point to overall improvements in outcomes for consumers arising from the case.<sup>8</sup>
- 1.10 There are both direct and indirect effects arising from the Foxtons case. The benefits delivered by the case comprise direct impacts that arise through Foxtons amending their letting terms and actively flagging renewal commission terms to the benefit of consumers. Such benefits will continue to accrue in future years.
- 1.11 In addition to directly impacting Foxtons terms and charging practices, the case has other indirect impacts, with potential to both deter similar practices by other letting agents and deliver dynamic effects for other consumer landlords in the market, empowering them to negotiate on terms with other agents or even switch letting agents to achieve better terms.
- 1.12 Whilst there are some indications in IFF's surveys that the Foxtons case has had positive influences on both of these effects, we do not provide estimates for these indirect impacts. In principle, such effects are measurable, but in practice monetising them within this study is challenging due to a lack of pre-intervention data. Given such data limitations and in keeping with the conservative nature of our approach to impact estimation, we do not present monetary estimates for either the deterrent effect of the action on other letting agents or its dynamic

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<sup>8</sup> See Chapter 4 and Annexe B for a full explanation of our approach to impact estimation and more discussion of the assumptions made in the quantification process.

effects on consumer landlords. Rather, we note the potential significance of these factors in addition to the direct impacts delivered. The findings for both direct and indirect impacts are summarised in Figure 1.1 below:

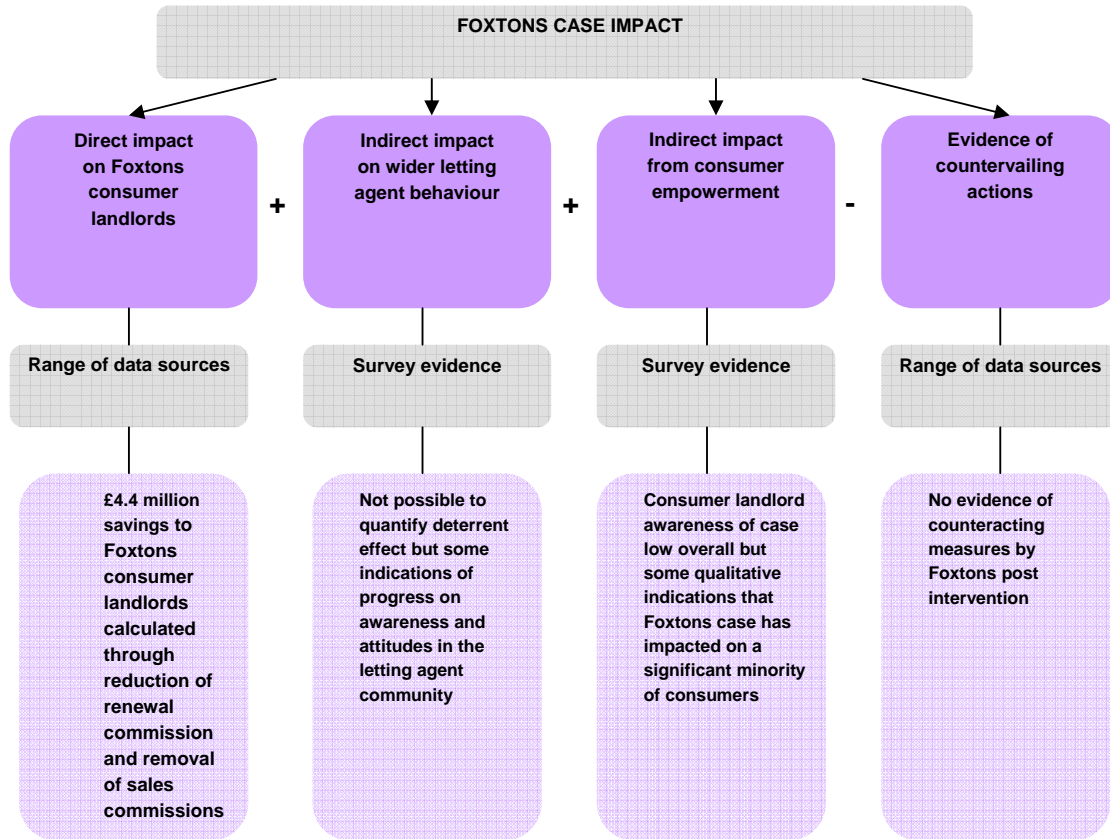


Figure 1.1: Estimating the impact of the Foxtons case

### Insights/learning

1.13 In addition to estimating benefits to consumers from the Foxtons case, the evaluation provides insights with potential to inform OFT’s further work in the letting agents sector. Such evaluation learning re-enforces the value of OFT prioritising work on a case-by-case basis, with cases such as Foxtons resulting in changes to unfair terms, as well as offering lessons of wider applicability across markets. IFF’s survey findings suggest that it may take time for consumers and businesses to become aware of changes to or clarifications of the law as a result of a court ruling and for businesses to change their behaviour in response. Such changes are also likely to need re-enforcing over time.

- 1.14 The surveys conducted by IFF suggest awareness of the enforcement action against Foxtons is relatively low amongst consumer landlords (with approximately one third being aware overall).<sup>9</sup> Whilst awareness is substantially higher amongst letting agents, there remains a significant proportion of agents unaware of the judgment and its possible implications for their business (some 43 per cent of letting agent respondents were unaware of the case). Furthermore, letting agents and consumer landlords report that the three kinds of commission terms that were challenged by the OFT in the case against Foxtons appear to continue to be used by a relatively large number of letting agents. Such findings suggest there are businesses in the market who appear to be breaching the law as set out in the Foxtons judgment.
- 1.15 Taken together, consumer landlord and letting agent survey findings suggest there is scope for further OFT engagement with the letting agent sector to raise awareness of the case and its implications for other letting agents. IFF's findings highlight that OFT's contact with industry bodies has already been effective in raising case awareness amongst their members. Amongst those letting agents spontaneously aware of the case, the Association of Residential Letting Agents (ARLA) was one of the most frequently mentioned sources of knowledge reported, highlighting the value of awareness raising through trade association channels.<sup>10</sup> Simultaneous engagement with landlord representative groups has the potential to further spread awareness of the action amongst consumer landlords, encouraging them to negotiate on terms and if necessary, switch agents in pursuit of a better deal.
- 1.16 Finally, the research undertaken as part of this evaluation offers a baseline for monitoring progress going forward in the sector. Replicating surveys for both letting agents and consumer landlords has

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<sup>9</sup> See Chapter 5 in IFF's report for further details. Consumer landlord and letting agent awareness combines both prompted and unprompted question responses.

<sup>10</sup> Contact from ARLA was mentioned by 14 per cent of those agents spontaneously aware of the case. A further six per cent of respondents mentioned ARLA's Agreement Magazine, while four per cent mentioned contact from the National Association of Estate Agents.

potential to enable changes in the awareness, attitudes and behaviour of both groups to be tracked. It will also offer opportunities for quantifying indirect effects in future, as knowledge of the case continues to become embedded in the sector over time.

## 2 INTRODUCTION AND BACKGROUND

### Introduction

2.1 The mission of the Office of Fair Trading (OFT) is to make markets work well for consumers. In fulfilling its mission, the OFT is committed to evaluating the impact of its work for two purposes:

- **External accountability:** to evaluate whether the OFT delivers its objectives and does so cost effectively to the taxpayer<sup>11</sup>
- **Internal management:** to use formal evaluation of past work to inform future OFT work and choice of intervention methods and processes.

2.2 The principal aim of this evaluation is to examine the impact of the OFT's Foxtons case, with a view to estimating the benefits delivered to consumers from the enforcement action. To this end, the evaluation considers three different types of impacts:

- impacts delivered to 'consumer landlords' using Foxtons
- wider impacts from the deterrent effect of the case – resulting from changes in awareness, attitudes and behaviour of letting agents in the market
- wider impacts arising from consumer empowerment amongst consumer landlords in the market.

2.3 Figure 2.1 illustrates these different impacts from the final outcomes that the OFT might expect to result from its enforcement action against Foxtons, along with some intermediate impacts. As Figure 2.1 highlights the intervention is the Foxtons case, with intermediate effects being the company in question changing their letting agreement terms, including being clear and transparent to consumers on renewal commission terms. These changes have both implications for

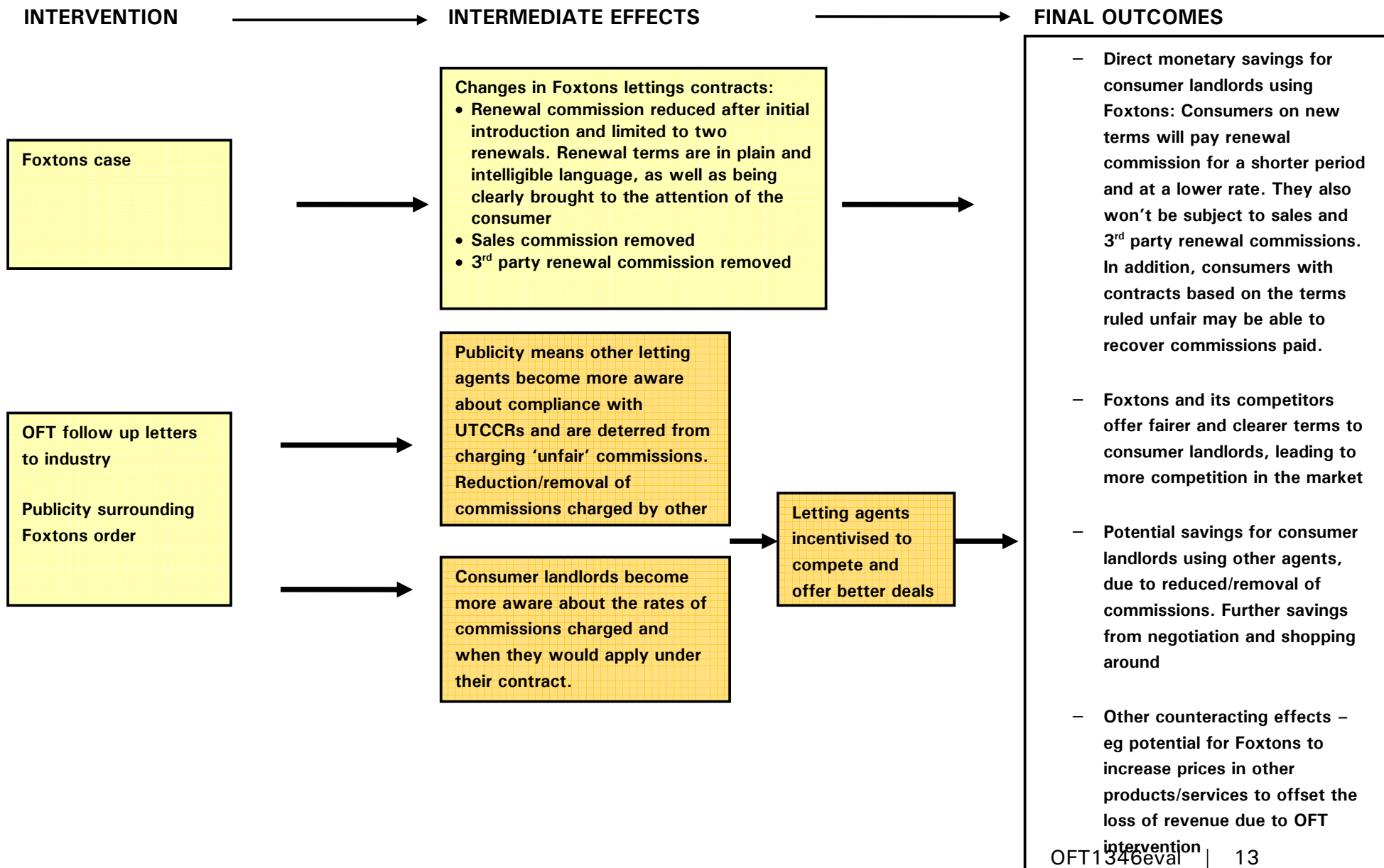
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<sup>11</sup> This includes a business plan impact indicator to estimate the direct savings to consumers from OFT activities (see [www.offt.gov.uk/about-the-offt/offt-structure/accountability/business-plan](http://www.offt.gov.uk/about-the-offt/offt-structure/accountability/business-plan)).

consumers with contracts based on the previous terms and consumers entering into contracts post enforcement action. Such changes to terms result in positive outcomes for Foxtons consumers leading to monetary savings.

- 2.4 In addition to the case itself, associated publicity surrounding the Foxtons order and follow up letters sent by the OFT to the industry also serve to raise awareness amongst both letting agents and consumer landlords. Such intermediate effects have potential to result in Foxtons' competitors changing their letting agreement terms with greater competition being stimulated in the market. This in turn may result in savings for consumers using other letting agents. Finally, Figure 2.1 notes the potential for other countervailing actions to occur in response to the case. For instance, it is possible that Foxtons might increase prices of other products/services to make up for any loss of revenue due to an intervention.

**FIGURE 2.1: IMPACT CHAIN FOR THE FOXTONS CASE**



2.5 This evaluation seeks to consider the different effects and outcomes outlined in Figure 2.1. In particular, it seeks to examine the different direct and indirect impacts as set out in Box 2.1 below, together with any evidence of countervailing measures being taken by Foxtons following intervention.

**Box 2.1: Impact of the Foxtons case**

Impact = (i) direct impact on Foxtons consumer landlords + (ii) indirect impact on letting agent behaviour + (iii) indirect impact from wider consumer empowerment – (iv) evidence of countervailing actions.

## Approach

2.6 In attempting to estimate consumer benefits arising from the Foxtons case, the evaluation draws on key variables from a range of different data sources, including OFT publications and external information sources that provide an overview of the lettings market.<sup>12</sup> It also utilises primary research in the form of commissioned landlord and letting agent surveys undertaken by IFF Research Ltd in February 2011.<sup>13</sup> Key variables from these different data sources are used to inform a series of calculations that produce quantitative savings estimates arising from the Foxtons case.

2.7 In utilising key variables from these primary and secondary sources, the evaluation is underpinned by a cautious approach to estimating impact,

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<sup>12</sup>A variety of data sources have been accessed including ARLA, DCLG, Keynote and ONS reports. References and links are provided at various points within this report.

<sup>13</sup>The surveys undertaken by IFF Research comprised a telephone survey of 800 letting agents and interviews with approximately 1000 consumer landlords, conducted through an online survey. Conducting surveys with both letting agents and consumer landlords enabled findings between groups to be considered in tandem, enabling the awareness, attitudes and behaviour of both groups to be compared and contrasted. See the accompanying Annexe to this report for more information on the work undertaken by IFF Research.

characterised by the use of conservative assumptions and the exclusion of certain benefits from the analysis. While data availability prevents the quantification of certain benefits, we will attempt, where possible, to provide a qualitative indication of progress for a particular measure.

- 2.8 Finally, in order to evaluate the impact of the Foxtons case it is important to define a clear counterfactual. That is, we must consider what would have happened (and how the lettings market would have evolved) in the absence of the OFT's case on Foxtons letting agreement terms. As part of this process, some consideration should also be given to whether there are any other factors that are likely to be influencing outcomes in addition to OFT's case. The counterfactual is considered in further detail in Chapter 4, where we present our quantitative savings estimates.

### **Overview of the Foxtons enforcement case**

- 2.9 Foxtons is an estate agency offering letting, buying/selling and property management services in London, Middlesex and Surrey. The firm was established in 1981 and has an important regional presence (operating 31 offices). Establishing Foxtons market share in London is challenging, although a 2011 Keynote report ranks Foxtons twenty-first out of 30 leading estate agents by number of residential branches.<sup>14</sup> A further London sales and lettings market share figure of 25 per cent is cited on the internet.<sup>15</sup>
- 2.10 Following a number of complaints (from consumer landlords), the OFT initially approached Foxtons in May 2005, challenging certain terms in their 'Long Term Lettings and Management' agreements (with consumer landlords) claiming they were in breach of the UTCCRs (Unfair Terms in Consumer Contracts Regulations 1999).

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<sup>14</sup> See Keynote market report (2011) 'Estate Agents'

<sup>15</sup> See <http://london.londinium.com/5933>

2.11 The OFT challenged three kinds of terms:

- **Renewal commission terms:** Terms which provided that commission shall be paid to Foxtons on renewals, continuations and extensions of a tenancy – even where the person renewing the tenancy is not the tenant that Foxtons originally introduced.
- **Third party renewal commission terms:** These terms covered the situation where the landlord sold the property with the tenant still in it to a third party. If the new landlord wished to let the tenant stay in the property when the period of the tenancy had expired, the old landlord would still have to pay Foxtons' commission – for as long as the tenant stayed in occupation, unless the new owner of the property could be persuaded to take on the responsibility for paying the renewal commission.
- **Sales commission terms:** Terms which provided that a full estate agency commission shall be paid to Foxtons in the event of a sale of the property by the landlord to the tenant.<sup>16</sup>

2.12 Foxtons robustly defended their position that the terms were fair leading to OFT issuing high court proceedings against Foxtons in February 2008 under the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs).

2.13 In July 2009 the High Court accepted that all the terms the OFT complained of were unfair. Foxtons had until 29 January 2010 to lodge an appeal against the High Court ruling but did not do so. In February 2010, the OFT secured a final High Court order against Foxtons preventing it from using or relying upon certain unfair terms in its letting

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<sup>16</sup> Source: Foxtons Q&As. [www.oft.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas](http://www.oft.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas)

agreements with consumer landlords.<sup>17</sup> Annexe A illustrates the timeline of the case.

- 2.14 The ruling and order prohibit the use of sales commission and third party renewal commission in Foxtons' letting contracts and require that where renewal commission is to be charged, it must be transparent and clearly brought to the attention of the consumer. On renewal commission, the judge noted it represented a significant proportion of Foxtons' rental income (11 per cent), and this operated adversely against the landlord the more time goes on – in the sense that rents are likely to increase, so the amount the landlord has to pay will increase. Further, he said that where no commensurate services were provided by Foxtons the renewal term represented a trap or a time bomb for consumer landlords. Therefore, there could be a significant imbalance in the contract, to the detriment of the consumer.<sup>18</sup>
- 2.15 The liability to pay the commission, the circumstances in which it is payable and the amount or rate of commission must be clear and actively flagged up to the consumer. The terms must be in plain intelligible language, so that the consumer can understand the nature and extent of their liabilities.<sup>19</sup>

## **Structure of this report**

- 2.16 The remainder of this report provides an overview of key findings from letting agent and consumer landlord surveys. In particular, it combines specific survey findings with key variables from other data sources to calculate quantitative savings estimates arising from the Foxtons

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<sup>17</sup> Source: OFT Press Release 2010: 'OFT secures final high court order against Foxtons. See [www.of.gov.uk/news-and-updates/press/2010/19-10](http://www.of.gov.uk/news-and-updates/press/2010/19-10)

<sup>18</sup> Source: Foxtons Q&A: [www.of.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas](http://www.of.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas)

<sup>19</sup> Source: Foxtons Q&A: [www.of.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas](http://www.of.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas)

enforcement action. In considering both the direct and indirect impacts arising from the case (outlined in Box 2.1), qualitative assessments of progress are presented where it is not feasible to quantify benefits to consumers within elements of our analysis.

### **3 SUMMARY OF EVIDENCE ON THE IMPACT OF THE FOXTONS CASE**

#### **Introduction**

3.1 This chapter presents an overview of key findings from letting agent and consumer landlord surveys, commissioned by OFT and undertaken by IFF Research in February 2011. The objective of IFF's research was to provide evidence on the market to inform this OFT evaluation. A more comprehensive report detailing survey methodology and main findings produced by IFF Research follows as an Annexe to this report. The following summary of findings is structured around three key areas that inform subsequent impact estimate calculations:

- evidence of changes to letting agent commission terms following the Foxtons enforcement action as reported by letting agents and consumer landlords
- awareness of OFT's enforcement action amongst letting agents and consumer landlords, and
- evidence of changes to letting agent and consumer landlord attitudes and behaviour in response to the Foxtons case.

#### **Evidence on letting agent commission terms**

3.2 Both surveys included questions probing the incidence of letting agent commission terms. Letting agents and consumer landlords report that the three kinds of commission terms that were challenged by the OFT in the case against Foxtons are still being used by a relatively significant number of letting agents. Such findings suggest there are businesses in the market who appear to be breaching the law as set out in the Foxtons judgment.

- 3.3 Almost three-fifths (57 per cent) of letting agents report charging a sales fee or sales commission;<sup>20</sup> 42 per cent of letting agents report charging a renewal fee or commission when providing a letting service only, that is, without management services, (and, in 75 per cent of these cases, agents report that these apply indefinitely or for as long as the tenant continues to let the property);<sup>21</sup> while over one-quarter (28 per cent) of letting agents report charging third party fees or commission. Letting agents based in London or Surrey (that is, where Foxtons operate) are more likely to charge two of the three types of fee and commission (renewal and third party) than elsewhere in the UK.
- 3.4 The results of the consumer landlord survey also indicate that the use of these terms is relatively common, although consumer landlords report a lower incidence of use than letting agents. Fewer than one in five consumer landlords (18 per cent) say their letting contract definitely includes a sales fee or sales commission, 34 per cent say their contract definitely includes a renewal fee or commission, and 10 per cent say their contract definitely includes third party fees or commission.
- 3.5 As IFF note in their report, the contrasting methodologies used for each survey may account for such differences in findings. Consumer landlords who took part in the research were not asked to consult their contracts directly, so the lower reported incidence is likely to be attributed to poor recall, especially if terms are not prominent in their contracts or clearly explained before or at the time of entering into the

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<sup>20</sup> A fee is a fixed monetary sum; whereas commission is expressed as a percentage (e.g. of a property's value).

<sup>21</sup> The Judge in the Foxtons case did not say that agents cannot charge renewal commission at all, but that if they wish to do so, they must make the liability to pay this absolutely clear. He did rule that consumers are likely to find the obligation to pay renewal commission surprising, and therefore it is especially important that this obligation be actively flagged. See [www.ofc.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas](http://www.ofc.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/qandas).

contract. Indeed, only 55 per cent of consumer landlords reported that they had 'read their contracts thoroughly' in the first instance.

- 3.6 Such findings are broadly consistent with OFT's 2011 Consumer Contracts market study<sup>22</sup> which highlighted that many consumers do not read contracts in full. A survey conducted as part of the study found that 58 per cent of consumers had either had 'a good read' or 'picked out the key points' of their contract before purchase, with the remainder either giving the contract 'a quick skim read' or not reading at all.<sup>23</sup>
- 3.7 Qualitative research conducted with landlords as part of the Consumer Contracts market study provides further insight into how consumers rely on agents rather than a detailed reading of the contract, which together with previous letting experience was also found to impact on the likelihood of reading the contract in detail.<sup>24</sup> Indeed, consumer landlords reported overlooking 'the finer detail of the contract' when first letting out their property, whereas those with more experience reported having 'a greater understanding of the terms and greater inclination to read the contract'.

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<sup>22</sup>OFT (2011) Consumer Contracts, OFT 1312. [www.of.gov.uk/OFTwork/markets-work/current/consumer-contracts](http://www.of.gov.uk/OFTwork/markets-work/current/consumer-contracts)

<sup>23</sup> OFT (2011) Annexe D: Phase 1 Quantitative Survey of Consumers, prepared by You Gov. [www.of.gov.uk/OFTwork/markets-work/current/consumer-contracts](http://www.of.gov.uk/OFTwork/markets-work/current/consumer-contracts)

<sup>24</sup>See OFT (2011) Annexe E [www.of.gov.uk/OFTwork/markets-work/current/consumer-contracts](http://www.of.gov.uk/OFTwork/markets-work/current/consumer-contracts)

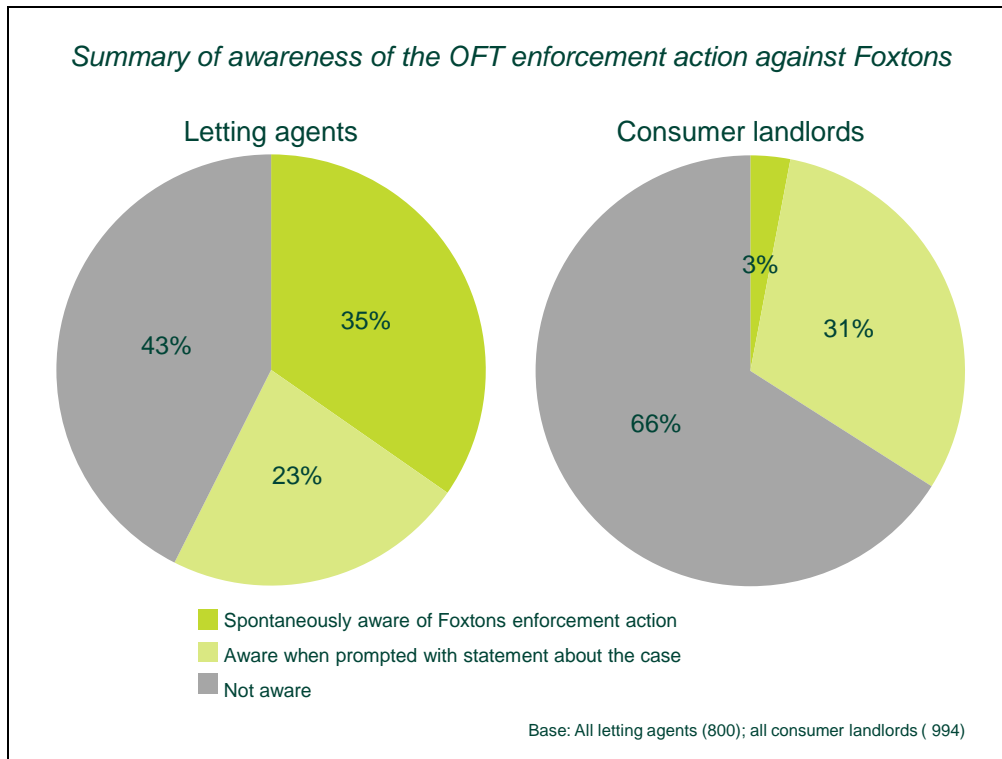
## **Awareness of OFT's Foxtons case**

- 3.8 Both surveys were designed to assess the extent to which letting agents and consumer landlords were aware of the OFT's action against Foxtons through unprompted and prompted questioning.<sup>25</sup>
- 3.9 As Figure 3.1 highlights below, awareness of the enforcement action is relatively low among consumer landlords surveyed but substantially higher amongst letting agents.

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<sup>25</sup> Unprompted questions tested spontaneous awareness of the OFT enforcement action against Foxtons (i.e whether respondents were able to cite the case without first being prompted with a description of it). Prompted questions on awareness then followed with respondents being prompted with a description of the case and asked whether they were aware of it.

**Figure 3.1: Summary of letting agent and consumer landlord awareness of OFT enforcement action against Foxtons**



- 3.10 As Figure 3.1 illustrates, without being prompted about the case, 35 per cent of letting agents were spontaneously aware of the Foxtons case. When directly prompted with details of the OFT enforcement action against Foxtons, awareness of the case rises to 58 per cent of letting agents.
- 3.11 By contrast, only three per cent of consumer landlords were spontaneously aware of the Foxtons case and 31 per cent claim to have heard of the case when prompted with a description of it.
- 3.12 Amongst both groups, the findings of the surveys indicate that awareness of the case is higher in London and Surrey than elsewhere in the UK, suggesting greater visibility in the areas in which Foxtons operates.

## Evidence of changes to letting agent and consumer landlord behaviour

- 3.13 In addition to examining awareness levels, survey findings provide some indications that the Foxtons case has had a positive impact on consumers, but evidence on changes in behaviour both for letting agents and consumer landlords appears limited at this point in time. Attributing causality to the Foxtons case is hampered more generally by a lack of pre-intervention information on both the actions of letting agents and consumer landlords with which to compare IFF's findings.
- 3.14 Nevertheless, there are some indications that the Foxtons case has prompted letting agents to provide clearer information to consumer landlords, with 16 per cent of the consumer landlords surveyed in London (that is, one of the areas where Foxtons operates) reporting that fee information has become 'much clearer' since the initial judgment (significantly higher than those elsewhere in the UK). Likewise, 15 per cent of agents spontaneously aware of the Foxtons case report that they now provide clearer information in general to clients (significantly higher than those not aware of the case).
- 3.15 Other changes highlighted through the survey include letting agents in London and Surrey being more likely to report fee reductions both in general and in relation to renewal commission than other parts of the UK.<sup>26</sup> As IFF note, however, there are numerous other market conditions that influence increases and decreases in fees and commission geographically. Furthermore, fewer than one-tenth of letting agents who report being aware of the Foxtons case and making changes to the fees and commission they charge attribute these changes to the Foxtons case.

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<sup>26</sup> Letting agents located in London and Surrey were less likely to have increased fees (24 per cent; whereas this was 44 per cent for all agents) and more likely to have decreased fees (38 per cent; whereas this was 25 per cent for all agents). Considering **specific** types of fee, agents in London and Surrey were more likely to have decreased their renewal commission/fee for letting-only services (23 per cent, compared with 12 per cent across all agents)

- 3.16 By comparison, consumer landlords who are aware of the Foxtons enforcement action tend to be more confident across a range of factors (for example, that they know the market rate for properties; and know what to look for in letting contracts). Those aware of the case are also more likely to have thoroughly read contract terms and conditions and to be very confident in their understanding of contract fees and commission. Whilst awareness of the case may have prompted consumer landlords to increase their scrutiny of contracts as well as raising confidence, it is also likely that these respondents may be more attentive to these matters and more likely to hear about and/or remember the Foxtons case.
- 3.17 Overall, one per cent of consumer landlords claim they took action – either shopping around or seeking to re-negotiate their fees – as a result of hearing about the Foxtons case. Of course, some consumer landlords who did not take action may have simply assumed that positive changes would be made by their letting agent, as a result of the case (indeed, 10 per cent of landlords reported that they had experienced letting agent-instigated contract changes and eight per cent reported experiencing letting agent-instigated reductions in fees).
- 3.18 Qualitative research conducted as part of the ‘Consumer Contracts’ market study provides further evidence that consumer landlords may question specific terms within the contract and seek to negotiate on certain aspects. The role of previous experience is again important. Indeed, many of those landlords with previous experience reported they felt it essential to negotiate on aspects of the contract, as well as shopping around to find a letting agent with lower renewal fees or one willing to negotiate on the fees.<sup>27</sup>

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<sup>27</sup> See OFT (2011) Annexe E, [www.offt.gov.uk/OFTwork/markets-work/current/consumer-contracts](http://www.offt.gov.uk/OFTwork/markets-work/current/consumer-contracts)

## 4 CONSUMER BENEFITS

### Introduction

4.1 This chapter aims to identify and, where feasible, quantify, the benefits delivered to consumers from the OFT's Foxtons enforcement action. The evaluation considers three forms of impact:<sup>28</sup>

1. changes made to commission terms and charging practices by Foxtons that impact on consumer landlords who use Foxtons to let their properties
2. wider impacts delivered through the deterrent effect of the enforcement action on other letting agents in the lettings market, and
3. wider impacts that result from increased consumer empowerment – with landlords aware of OFT's case changing their behaviour.

4.2 This chapter considers each type of impact in turn and then provides an overall estimate for the consumer benefits delivered by the Foxtons case. In so doing, it attempts to monetise impacts wherever feasible - presenting a qualitative assessment of progress for particular impacts where monetisation is not possible.

### Impacts from Foxtons changing their terms and charging practices

4.3 The OFT's intervention and subsequent Court judgment resulted in Foxtons making significant improvements to its standard lettings contract(s) with consumer landlords. These contract amendments were accompanied by changes in Foxtons charging practices, the removal of unfair terms from their contracts and improved information on Foxtons

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<sup>28</sup> As acknowledged in the impact chain for the intervention, it is possible that a business may undo some of an intervention's objectives through raising other fees or charges. Such counteracting impacts are considered later in this chapter as part of the estimation process.

website about their fees and charges, with positive implications for its consumer landlords.

4.4 Foxtons ceased using certain terms which were deemed unfair and prohibited by the Court. In its revised lettings contract it made a number of changes to the commission terms including making the liability to pay renewal commission more transparent, reducing the charge payable on renewal commission from 11 to 7 per cent, and limiting it to two renewals.<sup>29</sup> The changes Foxtons made as a result of the OFT’s intervention and Court Order are summarised in Table 4.1 below:

Table 4.1: Summary of changes made by Foxtons to its commission terms in lettings contracts

Term	Pre OFT intervention	High Court judgment and Order	Post OFT intervention and Court Order
<b>Renewal Commission</b>	Landlord pays 11% + VAT on value of lease, initially for introduction to tenant and indefinitely, that is, every time tenant or party introduced by tenant renews/extends tenancy	Term must be in plain, intelligible language and actively flagged	Initial introduction 11% + VAT 1 <sup>st</sup> renewal – 7% + VAT 2 <sup>nd</sup> renewal – 7% + VAT 3 <sup>rd</sup> renewal onwards –no charge <sup>30</sup>

<sup>29</sup> Source: OFT Press Release 2010: ‘OFT secures final high court order against Foxtons.’ See [www.of.gov.uk/news-and-updates/press/2010/19-10](http://www.of.gov.uk/news-and-updates/press/2010/19-10).

<sup>30</sup> We note that Foxtons have recently raised their renewal fees from seven to nine per cent. Such changes will influence the level of benefits that accrue to consumers going forward. (Foxtons website as accessed on 24.5.11).

<b>Third party renewal commission</b>	If landlord sells property to third party, he still pays 11% as renewal fee as long as original tenant or someone introduced by tenant or party introduced by tenant continues/renews/extends tenancy	Remove term	Removed
<b>Sales commission</b>	Landlord pays 2.5% commission on price of property when sold to tenant or party introduced by tenant	Remove term	Removed

4.5 The changes outlined above, therefore, have positive implications for consumer landlords using Foxtons to let their properties. Those landlords selling their property to either a third party or the tenant will have benefited from the removal of either the third party renewal commission or sales commission or both.

4.6 Furthermore, all consumer landlords using Foxtons whose tenant renews/extends their contract will have benefited from the reduction of renewal commission from 11 to seven per cent and landlords whose tenants remain in the property for longer than three years will benefit as renewal commission is only paid on two renewals. OFT's qualitative research with landlords provides some evidence from the perspective of consumers that Foxtons have amended their practices in relation to renewal commission following the Judgment.<sup>31</sup> The benefits delivered

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<sup>31</sup>See OFT (2011) Annexe E, [www.offt.gov.uk/OFTwork/markets-work/current/consumer-contracts](http://www.offt.gov.uk/OFTwork/markets-work/current/consumer-contracts)

to consumers using Foxtons from such changes are estimated later in this chapter.

## **Wider impacts from the deterrent effects on other letting agents**

- 4.7 In addition to Foxtons making changes to their terms and charging practices, the intervention and resulting judgment were effective in clarifying the law, containing key principles applicable to other letting agents' contracts with consumer landlords. The OFT followed up the judgment by writing to a number of letting agents and industry bodies<sup>32</sup> drawing their attention to the Order and confirming that it expected letting agents to amend their terms so as to comply with the law as set out in the Foxtons Judgment.
- 4.8 IFF's survey of letting agents suggests that such contact with industry bodies has been effective in raising awareness about the case. Amongst those letting agents spontaneously aware of the case, the Association of Residential Letting Agents (ARLA) was one of the most frequently mentioned sources of knowledge reported, highlighting the value of awareness raising through trade associations.<sup>33</sup>
- 4.9 The OFT's case, therefore, has ramifications that extend beyond directly impacting on Foxtons terms and charging practices, with potential for deterring similar practices used by other letting agents.

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<sup>32</sup> The OFT wrote to ARLA, NAEA and TPO (given their status and position in the letting agents industry), setting out its view in light of the Foxtons' case. The OFT has asked these bodies to cascade the information provided to their members and to inform them that the OFT will be monitoring the market and will consider taking action against letting agents who continue to use unfair terms in their letting contracts with consumers. For more information, see Foxtons: [www.oft.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/](http://www.oft.gov.uk/OFTwork/consumer-enforcement/consumer-enforcement-completed/foxtons/). The OFT has also worked with TPO to introduce terms within their Code which deter unfair practices.

<sup>33</sup> Contact from ARLA was mentioned by 14 per cent of those agents spontaneously aware of the case. A further six per cent of respondents mentioned ARLA's Agreement Magazine, while four per cent mentioned contact from the National Association of Estate Agents (NAEA).

Through changing awareness, attitudes and behaviour, it is possible that the case may have either encouraged other agents with similar terms and charging practices to amend their terms and/or prevented similar terms being adopted by other agents in future.

- 4.10 Findings from both letting agent and consumer landlord surveys provide some indications that the Foxtons case has indeed led to positive developments amongst other letting agents in the market. For instance, awareness of the case is relatively high amongst letting agents, with awareness of the case amongst both groups being higher in London and Surrey (the areas in which Foxtons operates) than elsewhere in the UK (see para 3.12).
- 4.11 As noted earlier, there is also evidence of letting agents providing improved information to consumers – reported by both letting agents and consumer landlords (see para 3.14). Letting agents in London and Surrey are also more likely to report reductions in fee levels in general and in renewal fees, although such changes are likely to be driven by a variety of market specific factors rather than the Foxtons case specifically (see para 3.15).
- 4.12 Despite greater visibility of the Foxtons case amongst letting agents in London and Surrey, IFF’s results suggest a need for caution when it comes to assessing deterrence from the case, particularly given the incidence of the three kinds of terms challenged still appear to be in relatively widespread use – including in London and Surrey areas (see para 3.3). The lack of pre-intervention information for both letting agents and consumer landlords also makes assessing progress in the incidence of particular terms challenging as there is no baseline to compare results against.

### **Wider impacts from consumer landlord empowerment**

- 4.13 Wider impacts from the case also have the potential to occur through increased consumer empowerment, with landlords aware of the case utilising their knowledge and changing their behaviour. Such changes may take a number of forms, including negotiating improved terms with

letting agents or even shopping around and switching to another agent offering better terms.

- 4.14 Whilst IFF's survey of consumer landlords reveals relatively limited awareness of the enforcement action, there is evidence that those who report being aware of the case are more likely to be confident in their knowledge of the lettings market and the fees and commission in their contracts (see para 3.16).
- 4.15 There is also some evidence of the dynamic effects of the intervention, with consumer landlords who reported having some knowledge of the substance of the case going on to renegotiate or switch letting agents – one per cent of consumer landlords reported taking action – either through shopping around or seeking to re-negotiate their fees – as a result of hearing about the Foxtons case. Others are likely to have benefited from letting agent-instigated changes following the case.<sup>34</sup>
- 4.16 Whilst survey data is relatively limited overall, qualitative research for OFT's 'Consumer Contracts' market study<sup>35</sup> provides further evidence of how landlords learn from experience in the market and adapt their behaviour accordingly. From experience, and publicity surrounding the Foxtons case, some landlords entering contracts with letting agents had heard that some agents use renewal fees. These landlords reported explicitly acting on their knowledge by taking both up-front and renewal fees into account when deciding which contract to enter.

### **Impact estimate for the Foxtons enforcement case**

- 4.17 The remainder of this chapter focuses on estimating the impact of the OFT's Foxtons case. The overall approach adopted comprises

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<sup>34</sup> 10 per cent of consumer landlords reported that they had experienced letting agent-instigated contract changes and eight per cent reported experiencing letting agent-instigated reductions in fees.

<sup>35</sup> OFT (2011) Annexe E, [www.of.gov.uk/OFTwork/markets-work/current/consumer-contracts](http://www.of.gov.uk/OFTwork/markets-work/current/consumer-contracts)

consideration of the different types of direct and indirect impacts outlined in the Box 4.1 below:

**Box 4.1: Impact of the Foxtons case**

Case Impact = (i) direct impact on Foxtons consumer landlords + (ii) indirect impact on wider letting agent behaviour + (iii) indirect impact from consumer empowerment – (iv) evidence of any counteracting impacts.

- 4.18 As highlighted in the preceding sections of this chapter, there are data limitations that pose challenges for estimating the impact from the Foxtons case. Given such challenges, a cautious approach is presented to estimating impact, underpinned by conservative assumptions and the exclusion of certain types of impact from the estimation process due to limited evidence.
- 4.19 In order to evaluate the impact of the Foxtons case it is important to define a clear counterfactual to assess whether the case in question has been responsible for the outcomes observed. That is, we must consider what would have happened (and how the lettings market would have evolved) in the absence of the OFT's case on Foxtons terms. As part of this process, some consideration should also be given to whether there are any other factors that are likely to be influencing outcomes in addition to OFT's case.
- 4.20 Constructing a counterfactual for Foxtons is challenging as in reality there are likely to be a number of external influences on the company in question (including from competitors) and the wider market in addition to the direct involvement of the OFT. Nevertheless, we believe that Foxtons would have continued to use the aforementioned terms without OFT's case and as such our counterfactual is that the market would have stayed as it was, with Foxtons continuing to use the terms OFT challenged. We have no evidence to suggest another scenario and consider this assumption provides both a plausible and valid counterfactual.

4.21 The impact estimation approach that follows focuses on more direct consumer benefits to Foxtons' customers, excluding from consideration the wider, indirect impacts from the case. Nevertheless, each component of Box 4.1 is considered in turn below.

### **(i) Impact on Foxtons consumer landlords**

4.22 The evaluation attempts to monetise impacts to consumers that result from changes made by Foxtons to letting terms by pursuing a number of different steps:

- **Establish the number of properties subject to Foxtons letting terms:** This step is based on information drawn from Foxtons website noting the business looks after 'over 5,500 properties' on behalf of landlord clients.<sup>36</sup> Whilst it is unclear how many additional properties Foxtons manage above this figure, we use 5,500 for our estimation purposes as the number of properties subject to Foxtons letting terms.
- **Estimate the savings made from the reduction in renewal commission:** This step estimates savings made as a result of Foxtons reducing its renewal commission from 11 to seven per cent, with the savings calculated being applied to the number of properties subject to Foxtons terms. Survey data on the mean rent for London of £10,800 a year is used initially to derive savings from changes in Foxtons' renewal commission terms (from 11 to seven per cent).<sup>37</sup> These savings are then applied to ARLA data on the average length of time a tenant stays in the same property in London (19 months<sup>38</sup>) to estimate the saving in renewal commission per property. See Box A in Annexe B for further calculation details.

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<sup>36</sup> Foxtons website accessed on 24.5.11.

<sup>37</sup> We note that the rental yields of Foxtons let properties are likely to be higher than this mean figure given Foxtons operate in the mid to higher end of the market.

<sup>38</sup> ARLA Members survey of the Private Rented Sector (18.9 is the 2010 four-quarter average). See [www.arla.co.uk/information/private-rented-survey/2010](http://www.arla.co.uk/information/private-rented-survey/2010)

- **Estimate the saving made from the removal of sales commission terms:** This step uses IFF and DCLG survey data to estimate the savings that result from Foxtons removing sales commission terms from its letting agreements. IFF survey findings suggest that three per cent of landlords sell to their tenant. We apply this proportion to the number of properties subject to Foxtons terms and multiply by DCLG survey data on average house prices across all dwelling types for London.<sup>39</sup> Finally, we apply Foxtons sale commission of 2.5 per cent and VAT to derive savings from changes in sales commission terms. See Box B in Annexe B for further calculation details.

4.23 The table below summarises the estimates for the impact of the case in terms of benefits delivered to Foxtons consumers:

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<sup>39</sup> See [www.communities.gov.uk/documents/housing/xls/140990.xls](http://www.communities.gov.uk/documents/housing/xls/140990.xls). Dwelling type comprises bungalow, detached, semi-detached, terraced, flat and maisonette property types. In practice, it is likely that Foxtons sale prices will be higher although we use this data in line with our conservative approach to impact estimation.

**TABLE 4.2 ESTIMATING THE IMPACT FOR FOXTONS CONSUMER LANDLORDS**

Number of properties subject to Foxtons letting commission terms	5,500
Savings from reduction in renewal commission	£2,583,533
Savings from removal of sales commission	£1,866,919
<b>MONETARY VALUE OF CHANGE IN FOXTONS CONTRACT TERMS</b>	<b>£4,450,452</b>

4.24 Table 4.2 suggests that the OFT’s intervention on Foxtons has led directly to annual savings of at least £4.4 million for Foxtons consumer landlords.<sup>40</sup>

4.25 These results, however, are sensitive to a number of assumptions for which the evidence could be stronger. For instance on renewal commission calculations, there is a degree of uncertainty around the type of letting service being provided by Foxtons for the 5,500 properties noted on their website. Foxtons provide both lettings only and letting and management services but their website does not provide details on the number of properties under each type of service. It is possible that the 5,500 properties may encompass the latter type of service while OFT’s case only challenged renewal commission terms in relation to the former – that is, properties on a letting only service.

4.26 We have attempted to verify the number of properties under each type of service with Foxtons but have been unsuccessful in doing so. In acknowledging a degree of uncertainty around the type of letting service being provided we use the 5,500 properties as a conservative estimate

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<sup>40</sup> These savings are likely to be conservative as they do not take into consideration consumers who may have sought refunds from Foxtons on commissions paid under old terms due to a lack of information.

within in our calculations as we expect the number of properties let by Foxtons is likely to be greater than those let and managed.<sup>41</sup> We increase the number of properties from 5,500 to 11,000 to give an indication of how this would alter our estimate of savings on renewal commission. This change would increase the savings from renewal commission to £5.2 million.

- 4.27 Likewise, the proportion of landlords that report selling to a tenant (three per cent) is based on survey results, requiring care in extrapolation given differences existing between the sample and the proportion that would be observed for the population as a whole. We vary the proportion of landlords that sell to a tenant to provide some sensitivity analysis for this measure. By varying the three per cent figure to either 1.5 per cent or four per cent, the corresponding estimate for savings from the removal of sales commission ranges from £933,460 to £2,800,379.

#### **(ii) Impact on letting agent behaviour**

- 4.28 As outlined earlier in the chapter, whilst there are some indications that the Foxtons case has had a positive impact on awareness and attitudes in the letting agent community, assessing change over time is challenging given a lack of comparable pre intervention data. Given such data limitations and in keeping with the conservative nature of our approach to impact estimation, we do not present a monetary estimate for the deterrent effect of the action.

#### **(iii) Impact on consumer empowerment**

- 4.29 Likewise, data is limited for estimating the impact of the case on consumer empowerment. Overall, consumer landlord awareness of the case is relatively low, although there is some evidence both from IFF's survey and qualitative research conducted as part of the 'Consumer

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<sup>41</sup> Indeed, Foxtons' website lists 2,477 properties currently available to rent with 829 of those being managed properties, highlighting they have more properties available on a lettings only service (website accessed on 24.5.11).

Contract' market study<sup>42</sup> that suggests the Foxtons case has impacted on a significant minority of consumers.

#### **(iv) Counteracting impacts**

4.30 The final component to assessing the impact of the case is consideration of any evidence of counteracting measures by Foxtons post intervention such as any subsequent changes to pricing structures or increases in prices for other services following OFT's intervention. On the former, our evaluation largely focuses on the reduction in renewal commission follow on fees and does not attempt to contrast these with any possible increases in upfront fees. On the latter, we have found no evidence of any countervailing impacts being taken following the case in terms of changes to the pricing of other letting and estate agency services. We note, however that observing such changes is challenging for both aspects, particularly as Foxtons provide a variety of services that encompass the full spectrum of estate agency services from the buying and selling of property to letting that involves both landlord and tenant agreements. Research from the OFT's Consumer Contract market study provides further evidence on how Foxtons have changed their approach to letting agreements post-OFT intervention.<sup>43</sup> We also note the improved information available on Foxtons' website about their fees and charges following the case.

#### **Consumer benefits from the Foxtons case**

4.31 In summary, we estimate the Foxtons case has delivered annual benefits to consumers of at least £4.4 million. This is an approximate monetary estimate based on a number of assumptions and should be viewed as an

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<sup>42</sup> See OFT (2011) Annexe E, [www.oft.gov.uk/OFTwork/markets-work/current/consumer-contracts](http://www.oft.gov.uk/OFTwork/markets-work/current/consumer-contracts)

<sup>43</sup> See OFT (2011) Annexe E, [www.oft.gov.uk/OFTwork/markets-work/current/consumer-contracts](http://www.oft.gov.uk/OFTwork/markets-work/current/consumer-contracts).

estimate of the order of magnitude of the benefits for consumers and treated with a degree of caution.

- 4.32 It is also, however, a conservative estimate given there are other observable (but unquantifiable) indirect impacts that point to overall improvements in outcomes for consumers arising from the case.

## 5 CONCLUSIONS AND INSIGHTS

- 5.1 In summary, the Foxtons case has resulted in positive benefits for consumers, delivering an overall annual benefit of at least £4.4 million. This is a conservative estimate given there are other observable (but unquantifiable) indirect impacts that point to overall improvements in consumer outcomes.
- 5.2 The benefits delivered by the Foxtons case comprise direct impacts that arise through Foxtons changing its behaviour, amending their letting terms to the benefit of consumers. Such benefits will continue to accrue in future years.
- 5.3 In addition to directly impacting Foxtons terms and charging practices, the case has other indirect impacts, with potential to both deter similar practices by other letting agents and deliver dynamic effects for other consumer landlords in the market. We do not, however, present monetary estimates for either of these indirect effects. Instead, we note the potential significance of these factors in addition to the direct benefits delivered.

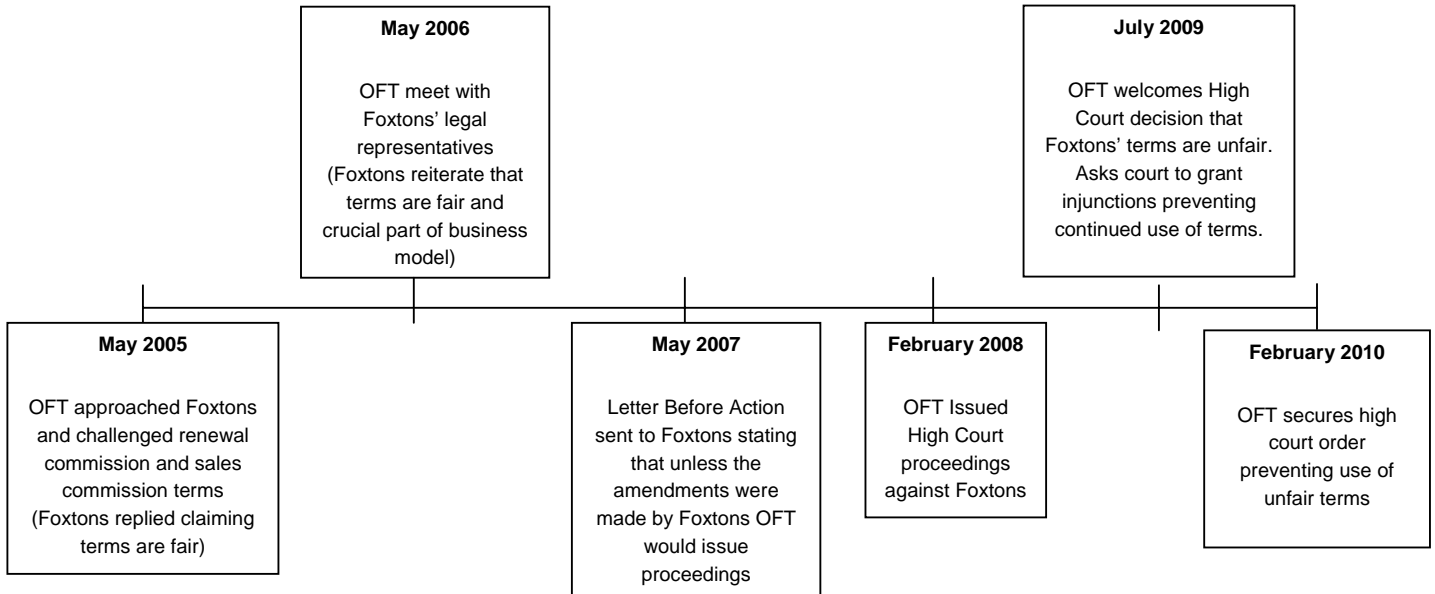
### Further insights

- 5.4 The evaluation provides insights with potential to inform further work in the sector. Such evaluation learning includes the value of OFT taking cases such as Foxtons that result in changes to specific business practices, as well as offering lessons of wider applicability across markets. IFF's survey findings suggest that it may take time for consumers and businesses to become aware of changes to or clarifications of the law as a result of a court ruling and for businesses to change their behaviour in response.
- 5.5 To that end, there is scope for further OFT engagement with the sector in future to raise awareness of the case and its implications for other letting agents. Survey findings suggest contact with industry bodies has already had some success in raising awareness about the case. Amongst those letting agents spontaneously aware of the case, the Association of

Residential Letting Agents (ARLA) was one of the most frequently mentioned sources of knowledge reported, highlighting the value of awareness raising through trade association channels. Simultaneous engagement with consumer representative groups has potential to further spread awareness of the action amongst consumer landlords, encouraging them to negotiate on terms and if necessary, switch agents in pursuit of a better deal.

- 5.6 Finally, the research undertaken as part of this evaluation offers a baseline for monitoring progress going forward in the sector. Replicating surveys has potential to enable changes in the awareness, attitudes and behaviour of both groups to be tracked over time.

## Annexe A: Timeline of the Foxtons case



## Annexe B: Impact estimation calculations

This annexe presents the calculations used for estimating impact in Chapter 4:

### **BOX A: Estimating the savings made from the reduction in renewal commission**

#### **Step 1 Estimate saving in renewal commission**

- Mean rent for London = £10,800 a year  
([www.communities.gov.uk/documents/housing/xls/141656.xls](http://www.communities.gov.uk/documents/housing/xls/141656.xls))
- Foxtons' renewal commission terms pre-intervention = 11 per cent
- Foxtons' renewal commission terms post-intervention = seven per cent

Saving in renewal commission = Annual rent x pre-intervention commission x VAT – annual rent x post-intervention commission x VAT

$$= 0.11 \times £10,800 \times 1.175 - 0.07 \times £10,800 \times 1.175$$

$$= £507.6 \text{ saving in renewal commission (per property per year)}$$

#### **Step 2: Apply saving to number of properties subject to Foxtons terms**

- Number of properties subject to Foxtons commission terms = 5,500
- Saving in renewal commission (per property) = £507.6
- Average tenant stay in property in London = 19 months (ARLA)
- Assume 50% of tenants renew at 12 monthly intervals = 2,750 properties incur one renewal commission within 19 month period (at £507.6 saving).
- Assume 50 per cent of tenants renew at six-monthly intervals = 2,750 properties incur three renewal commissions within 19-month period (at saving of £254 for first renewal, £254 for second renewal, and (£698) at third renewal (assuming previous 11 per cent commission). (£698 saving

$$= 0.11 \times \text{£}10,800 \times 1.175 / 2 \text{ to make six-monthly}).$$

Estimate approach =

(i) Number of properties subject to Foxtons commission terms x proportion that face renewal three times at 6 monthly intervals x saving in renewal commission charge. This produces an estimate of savings over an 18-month period so we divide this figure by 12 to produce an annual figure.

+

(ii) Number of properties subject to Foxtons commission terms x proportion that face renewal once at 12 months x saving at 12months

$$(i) (5,500 \times 0.5 \times \text{£}254) \times 2 \times (5,500 \times 0.5 \times \text{£}698) = \text{£}2,618,000$$

$$= \text{£}2,618,000 / 18 \times 12$$

$$= \text{£}1,745,333$$

+

$$(ii) 5,500 \times 0.5 \times \text{£}508 = \text{£}838,200$$

$$\text{Renewal commission saving} = \text{£}1,745,333 + \text{£}838,200 = \text{£}2,583,533$$

**BOX B: Estimating the savings from removal of sales commission**

- Number of properties subject to Foxtons commission terms = 5,500
- Proportion of properties sold to the tenant = three per cent (IFF Research survey of consumer landlords)
- Average dwelling price for London = £385,180
- Foxtons sales commission = 2.5 per cent
- VAT = 17.5 per cent

Savings from removal of sales commission = Number of properties subject to Foxtons commission terms x proportion sold to tenant x average dwelling price for London x Foxtons sale commission x VAT

$$= 5,500 \times 0.03 \times 385,180 \times 0.025 \times 1.175$$

$$= \text{£}1,866,919$$