

KEVIN HOLLINRAKE MP



HOUSE OF COMMONS

LONDON SW1A 0AA

The Rt Hon Philip Hammond MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
London SW1A 2HQ

3rd May 2019

Dear Philip,

The APPG has been participating in the DRS ISG and the DRS Working Group since 25th March 2019. We believe that we are making positive progress and appreciate the work, professionalism and commitment of those involved. However, we remain concerned about a number of the elements of the scheme that, if left unaddressed, will ultimately undermine trust in the system.

Balance of representation on working groups

- SME groups and victims are underrepresented and should be involved as participators and shapers not just to be a sounding board or sit as observers. As such, they should be entitled to equal representation at the analyst stage. It is projected that there will be nine bank analysts compared to the one SME professional, who will be on the Customer and Communications Workstream and will not be working on the actual design/process of the scheme. The only way that businesses and victims will have faith in the DRS is if they see they are properly represented at every stage and in every detail of this process.
- Resource should be made available so that these professionals can commit equal time and energy to this project as banks. We are concerned that this has not been forthcoming, and the reticence to adequately resource professional representatives of SMEs is, quite frankly, insulting. As we are trying to set up a system that is designed to level the playing field, this inequality of arms should not be embedded within the design and build structure itself.
- We are deeply concerned that any professionals that the APPG or SME Alliance put forward must be vetted, yet the banks are able to put forward whomever they wish. For example, the resource put forward for the process workstream consists of three bank analysts who have had experience in previous redress schemes or the FOS. Bearing in mind SMEs and their representative groups have little or no trust in these schemes we cannot possibly rely on this as the core knowledge base and believe it undermines the credibility of the work.
- Likewise, fair remuneration and expenses should be made available for participants who are not remunerated by other means. Groups such as the APPG and SME Alliance do not have the resourcing capabilities of multinational financial institutions, yet we must provide the same level of participation.
- Participation in the DRS should not detract from our other work, and we would suggest that SME Alliance in particular are appropriately remunerated for their time. From the APPG's perspective, we certainly need to look at additional resource to keep on top of our activities.

Eligibility

As you have said, this scheme must bring closure to a meaningful number of complainants. If the scheme is not going to achieve this, then further discussions of scope and eligibility should be discussed. The current scope of the scheme will not achieve your aim. As things stand, the majority of cases in both

SME Alliance and the APPG are excluded. We are currently conducting research to provide the ISG with a comprehensive breakdown of exclusions.

- The turnover limit of £6.5m will exclude a significant number of potential claimants. It appears illogical to have a forward-looking scheme with a turnover threshold of £10m but a historic scheme with lower threshold. We propose that a balance sheet of £7.5m is used as the eligibility criteria for the historic scheme and have no turnover threshold for either scheme.
- Definition of 'event' and event date. We propose 1st January 2000 and welcome UK Finance agreement to work with us on this. We would welcome an early discussion on this which we believe should be dealt with by the Implementation Steering Group. There are a small number of claims dating pre-2000 that we believe should be assessed on an individual basis.
- Review and inclusion of cases considered by ad hoc redress schemes e.g. IRHP/Griggs/Blackburne/CYBG TBLs/Appeals from FOS. These previous schemes were not sufficiently independent, and their parameters were significantly limiting and designed by the banks. We would welcome the establishment of a suitable engagement body within the DRS which could consider the inclusion of these cases.
- Insolvent businesses. This is clearly an area that will require in-depth consideration and we are glad there is a subcommittee on this. For the avoidance of doubt, shareholders, guarantors and directors of businesses that have been made insolvent require a right to complain under the scheme.

Moratorium

We regularly deal with cases that seem eligible for the DRS process who are experiencing or being threatened with legal action by their bank. This seems incredibly unfair and will also potentially be disadvantageous to the bank concerned as it may increase the level of compensation due to increased levels of distress and inconvenience. We strongly urge all the banks involved in the DRS to, wherever possible, call a moratorium on any legal action for any case that will provisionally qualify for the DRS.

Binding Limit

The vast majority of cases that the APPG deals with are significantly higher than the 'binding limit' of £350,000. We were pleased that UK Finance has accepted your view that a bank's default position should be to settle the full amount of any compensation awarded. References to a 'binding limit' are, therefore, inappropriate as victims may be deterred from referring their case to the DRS as it cannot offer an appropriate level compensation. We also fear that references to this limit may artificially influence and prejudice the level of awards being made by the DRS. If a bank refused to make payment above this level, the claimant would face the virtually impossible challenge of taking the case to court, which would then consider a case on the letter of the contract, rather than on a fair and reasonable basis, potentially leading to a different result. We propose that the term 'binding limit' be changed to 'appealable threshold' and that the in-built DRS appeal process would then reconsider the case if requested by the bank or claimant. The appeal verdict would then be final for either party.

Yours ever,



Kevin Hollinrake MP

Co-Chair of the All-Party Parliamentary Group on Fair Business Banking