



## 1. Introduction

Between 2002 and 2007, many small business owners were transferred to HBOS's corporate division, headquartered in Reading. The head of the bank's impaired assets division, Lynden Scourfield would require business owners, as a condition of the banks continued support, to appoint his favoured turnaround consultants, Quayside Corporate Services (QCS), run by David Mills and Michael Bancroft.

QCS would submit inflated business cases for additional finance, sometimes against the wishes of the owners. HBOS, under Mr Scourfield, would extend further funds. QCS would then siphon off money from the companies by invoicing the owners for very large fees. In exchange, QCS arranged for Mr Scourfield to receive hundreds of thousands of pounds worth of cash, holidays, watches, drugs and prostitutes. Many businesses then had their assets stripped by QCS and were either made bankrupt or sold for nominal amounts to companies often linked to Mills or Bancroft.

After the acquisition of HBOS by Lloyds Banking Group (LBG), LBG commissioned its own investigation into the fraud and the findings were presented to its senior management in the Project Lord Turnbull Report. The report indicates that the board were well aware of the fraud as early as 2008, and senior managers and directors of both HBOS and LBG then concealed that knowledge for some eight years. This conduct appears to have been made worse by the report itself, having been concealed from a number of the bank's directors, including its Chairman.

The Report makes further, and substantive, allegations that LBG concealed a hole in the accounts of HBOS of nearly £40bn as well as the £1bn fraud. In addition to the analysis within the bank's own report, the APPG has received evidence and statements that specifically refer to the fact that the fraud was not only known about, but was actively concealed, and that this concealment was directed from the head office in Scotland.

Responsibility for investigating the HBOS Reading fraud was passed between many hands. Several police forces and other authorities turned down the case originally. It was only after the campaigning of Paul and Nikki Turner that the fraud was investigated by Thames Valley Police (TVP). The investigation cost £7 million but led to the conviction of six people with a combined sentence of 47 years.

Following the conclusion of the criminal investigations, the APPG approached LBG offering to collaborate on creating an independent redress scheme. This was subsequently refused by LBG. Instead, they established an internal review to compensate the victims of the fraud with Professor Russel Griggs as the independent reviewer of the customer cases.

This review, however, is fundamentally flawed. For the reasons listed below, it is entirely unacceptable that the bank is able to operate their own internal redress scheme for the fraud at HBOS. Justice cannot be seen to be done if there is no truly independent arbitration.

## **2. Conduct of the Review**

- LBG have created a methodology which enables the bank to categorise the vast majority of compensation payable to the victims (i.e. anything other than refunding Quayside fees) as “distress and inconvenience” payments.
- This not only enables the bank to pay nothing in terms of losses for company destruction but also enables it to pay even less compensation, because it has agreed with HMRC in general terms that payments should be treated as exempt from tax, so it does not have to gross up payments.
- Furthermore, there is no evidence of LBG or Griggs seeking to sit down and discuss and analyse any aspect of the personal circumstances of the victims, the impact the bank had upon the businesses, the shareholders and directors, nor the professional opinion and analysis of the independent business professionals retained by the victims.
- Professor Griggs and the bank proceed to “award” a sum of money which they determine is fair and appropriate without discussion, and victims are then told clearly that they can take that sum or alternatively they can go to court to exercise and pursue their legal rights instead.

## **3. Design and Operation of the Review**

### **3.1 Exclusion of Victims**

- The parameters set by LBG are so restrictive as to exclude significant numbers of victims of the fraud. The bank has claimed that victims who did not have direct contact with those convicted for the fraud have no case at all and therefore have excluded them from the review. However, those convicted had deputies operating on their behalf, who were directly accountable to and took direct instructions from, those convicted.
- LBG have also excluded the shareholders of the businesses involved in the fraud. They have justified this by taking the position that all the businesses concerned in the fraud had no value when they entered the Reading unit of HBOS. However, it is incorrect for LBG to assert that all the businesses were destined for failure. It runs contradictory to the turnaround units of other banks, of whom have success rates of around 80%. Even if in distress, with correct treatment and support, a business has the potential to be turned around. It also has to be remembered that the modus operandi of the fraud was to load the businesses with debt.
- Furthermore, the bank has also ignored unsecured creditors, who number in the tens of thousands, many of whom may have gone to the wall because of the HBOS Reading fraud.

### **3.2 Reliance on Fraudulent Documents**

- LBG and Professor Griggs are relying on documentation to reach their decisions which have been in the hands of fraudsters who are now in prison. It is therefore fundamentally tainted and cannot be relied upon to determine the health or otherwise of the companies involved in the fraud.

### **3.3 Disclosure of Documentation**

- LBG also refuses to disclose its “case file” or any documents on which it is basing its decisions. This is putting the victims on an unequal footing as it prevents the victims from properly analysing their claims
- Those documents will inevitably contain evidence that is directly relevant to the question of causation. The question of causation is a key hurdle for victims to bring a legal claim for their

losses and therefore LBG will not disclose this information to protect themselves from future damages.

- DSAR requests do not work; the bank will only disclose details of references to individuals. It will not provide company documents. Professor Griggs claims to not have any information or documents at all by virtue of the way in which he conducts his review from the bank's offices.
- There is no discussion on how Griggs or the bank reach any financial outcome or conclusion and they fail to disclose any of the information which they hold on file about how supposedly rogue employees set about defrauding their victims by abusing their positions within the bank.

### 3.4 Refusal to Explain Methodology

- The bank never gives substantive reasons to explain its outcome letters other than the company would have failed in any event or "you have not met the relevant legal tests".
- The bank refuses to give detailed explanations, or even reveal what tests it is applying. A refusal to give reasons for a decision represents a breach of one of the most basic principles of natural justice. It is obviously designed to make the process as opaque as possible and make it as difficult as possible for victims to negotiate offers up.

### 3.5 Refusal to Pay for Forensic Accountants

- Despite saying they would, the bank has refused to pay for forensic accountants and in some cases, will not even wait for independent forensic accountants' reports.
- Griggs/LBG have failed to discuss any expert opinion provided to them and have simply labelled all the businesses as failures, despite the bank's own forensic accountants and experts providing opinions on the future values of the business during the years when the criminal behaviour was being conducted. The bank is in possession of that expert evidence yet both they and the Griggs Review completely ignore it.
- By refusing to meet these accountancy costs, the bank makes it almost impossible for victims to analyse their cases and present their claims for company losses even if the Bank was willing to consider them.

### 3.6 Outcome Meeting

- The Bank will invite victims to an outcome meeting with Professor Griggs to discuss offers, but the chair of the meeting will read from a written script that simply repeats the outcome letter. Pertinent questions are unanswered, as well as any discussion regarding the methodology or the basis of decisions.
- Professor Griggs does not challenge this. He frequently also displays a lack of knowledge of the details of a case.

## 4. Pressure to Accept Settlements

- Given the passage of time and the current age and financial circumstances of the individual victims, many victims are left with no real viable option but to accept the sums offered by the bank as they cannot afford to go to court in an attempt to obtain a more realistic settlement.
- The offers are given on a 'take it or leave it basis' and there is no appeals process other than the courts which is next to impossible for the victims, who are financially disadvantaged due to the fraud.

## 5. Range of Offers

- There is a fundamental lack of objective methodology when determining settlements. Awards are not based on the merit of an individual's case, but instead on who can do the bank the most damage outside the review.
- In some cases, this has resulted in some directors of a "victim company" being awarded a specific sum by way of compensation yet other directors being either excluded from the review altogether or being awarded something substantially different despite experiencing very similar consequences and circumstances.
- There is no procedure within the current review process for victims or their advisers to present any type of comparative award argument to a truly independent arbiter who is bound by previous awards or any kind of checkable tariff.

## 6. Independent Legal Advice

- At the outset the bank encouraged all victims to actively seek independent legal advice on all aspects of their claims. As an incentive to persuade victims to enter into the review, the bank added that it would pay all fair and reasonable "professional fees" incurred by victims to support their claims.
- Subsequently, the bank has not taken any notice of the professional advice and expert opinion evidence presented by victims and has now embarked upon a course of action whereby it seeks to avoid paying the professional and legal fees incurred without offering any kind of justification or argument. They have completely reneged on their previous statements to victims.
- Furthermore, those who were in the review and have subsequently been removed from the review (with no appeal process) are then left to pay their own legal fees.

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