



HOUSE OF COMMONS

LONDON SW1A 0AA

Andrew Bailey
Chief Executive
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

8th January 2019

Dear Andrew,

I hope this letter finds you well, and I wish you a Happy New Year.

As we enter 2019, I wish to raise with you a number of concerns that the APPG continues to hold. Although I believe we can both agree that some progress is being made, until such a time as we thoroughly deal with the outstanding legacy issues, they will continue to be a drag on business confidence and a hindrance to the UK economy. It is our sincere hope that this year we are able to move from dialogue to concrete actions.

RBS GRG Phase 2

The original terms identified in Phase 2 of the inquiry into the treatment of SMEs by RBS GRG were intended to establish the root cause of the misconduct, including whether inappropriate treatment was known about or sanctioned by management within RBS, and to make recommendations based on the findings. After taking Phase 2 'in-house', you promised in August 2018 that the FCA will "publish a more detailed account" of your findings, to the extent permitted by the law and after allowing for any 'Maxwellisation' process.

- 1. Can you please provide an update and timescale for this?*
- 2. Will you commit to meeting the reporting conditions of the Final Requirement Notice by publishing the report which considers the "root causes" and "whether it was sanctioned by management" detailing clearly who was responsible for the misconduct, without omissions or redactions?*

The Griggs Review

Lloyds Banking Group frequently attempt to defend the performance and effectiveness of the Griggs Review to the FCA and HM Treasury by stating the percentage of offers that have been made and accepted. For example, in the Westminster Hall debate on 18th December 2018, the Economic Secretary to the Treasury, John Glen MP, stated that Lloyds have made offers to all customers that sit within the scope of the Griggs Review, with 90% of customers accepting their offer.

These statistics fail to give an accurate representation of the Review. They do not consider whether the individuals are satisfied with their offers, they do not consider those that have

been excluded entirely from the Review due to the narrow parameters set by Lloyds and they do not provide a breakdown of whether these offers are simply nil offers.

By simply stating the percentage of acceptance, Lloyds are misleading the public into believing that an acceptance represents a satisfied customer, but the information received by the APPG reveals a different picture. We have received information from 59 individuals that have gone through the review, either via their advisors or directly. Of these:

- 2 were given nil offers;
- 3 were given nil offers but were subsequently excluded;
- 16 have been excluded entirely from the review;
- 24 have received offers and have accepted;
 - Of these, 12 are satisfied with their offer, 11 are dissatisfied and 1 is unknown. In general, offers range between 2% and 10% of the perceived value of the claim.
- 9 are still considering their offers;
 - Of these, 3 are dissatisfied with the process and 6 are unknown.
- 1 has rejected their offer;
- 4 are unknown

Those who accepted their offers, despite not being satisfied, did so for various reasons including: they did not feel able to fight any longer, because they were in the later stages of their lives, because they needed the money urgently due to their dire financial situation (due to the fraud), because they were concerned about the adverse costs and risks of fighting in court or because they knew their options were limited and that they simply wanted closure. We have been approached by many individuals, who wish to remain anonymous, saying that they felt they were signing under duress, but had no other options available to them.

These numbers appear at odds with the figures put forward by Lloyds. In addition, we would like to know whether the offers of 'nil' constitute offers in Lloyds' figures.

Our concerns with the design, methodology and operation of the Griggs Review are well documented and I have attached a letter sent to Lord Blackwell on 30th July 2018 which provides an overview of these concerns. During the course of the APPG's investigation over the past few months, our concerns have been consistently endorsed by individuals who have been involved in the Review process.

When we put these points to you in a letter on 30th July 2018, you responded the following day by saying that Lloyds "need to respond to these questions". You also promised to "respond in more detail when I have these answers".

3. May I ask whether any response from Lloyds has been forthcoming?

Furthermore, the recent opinion by Jonathan Laidlaw QC has found the Review to be “procedurally defective” and “unfair”, with its methodology and guiding principles being “flawed” and appearing “partial to LBG’s interests”.

We have seen evidence that decisions made by Professor Griggs have been overruled by Lloyds Banking Group and that the settlement agreements that the victims are required to sign are much more draconian than the one provided as evidence to the Treasury Select Committee.

4. *We have evidence of claims by LBG that the Griggs Review was established with FCA approval, can you confirm whether or not this is the case?*
5. *Can you confirm who within Lloyds Banking Group has explicit responsibility for the compensation scheme under the Senior Managers Regime?*

The failure of Lloyds and António Horta-Osório to respond to, and address, these important concerns only provides further evidence of the need for the FCA to investigate Mr Horta-Osório under the Senior Managers and Certification Regime (SM&CR), as requested in my letter to you on 22nd November 2018.

As you stated in your letter to me of 8th October 2018, “there will always be a degree of suspicion about compensation schemes that are operated by firms and, when they relate to activity outside the regulatory perimeter, not shaped or specified by the FCA.”

6. *As the Senior Managers Regime is within your regulatory perimeter, can you confirm that such an investigation will be carried out?*

In the debate on 18th December 2018, the Economic Secretary to the Treasury announced that Lloyds will complete a post-completion review of the methodology and processes of the Griggs Review. This is not an adequate solution to the concerns we have raised. There will be a great deal of scepticism in this review of the Review as it will simply be seen as Lloyds ‘marking their own homework’ by setting the parameters of their own investigation.

UK Finance have confirmed to us by email that individual bank redress schemes are a matter for individual firms and the FCA.

7. *In our view, a fully independent redress mechanism for all cases is required. Will you therefore support the APPG’s calls for the FCA to carry out an independent review of the Griggs Review and to have Griggs Review cases included within the scope of the Historic Compensation Scheme (see below)?*

FCA Investigations/HBOS Fines

On the wider issue of the HBOS Reading fraud, you have also stated in a letter dated 16th February 2017 to the former Chair of the APPG, George Kerevan MP, that the FCA is investigating matters in relation to HBOS Reading and certain former HBOS senior

managers. You confirmed to me in a letter dated 14th December 2018 that you are still investigating events surrounding the discovery of misconduct within the Reading-based Impaired Assets team of HBOS.

8. *Given that these investigations have been ongoing for almost two years, will you commit to a timescale for concluding your investigations?*
9. *Will the FCA impose fines on HBOS for the fraud perpetrated against their SME customers?*

The Dobbs Review

I wish to reiterate once more our concerns, shared by many, over the Dame Linda Dobbs Review. As previously stated, whilst we have no reason to doubt Dame Linda and her team's capability or integrity, the Review does not have any statutory powers and the Review's terms of reference are defined by Lloyds. Worryingly, the Review will also only consider events between 2009 and 2017, thereby ignoring the evidence presented in the Project Lord Turnbull Report, which states that the cover-up of the fraud commenced as early as 2005.

The final report of the Review will also be wholly owned by Lloyds.

10. *Will the FCA ask Lloyds for assurances that the findings will be released to the public?*

Furthermore, given the length of time it will take for the Review to reach its conclusions, will the FCA make a formal request to Dame Linda to release an interim report of her findings?

As things stand, the Dobbs Review appears to be used as a 'fig leaf' for the Group, with any queries being very much kicked into the long grass. As the results of this Review may have a material impact on the lives of those defrauded, it would only seem appropriate that this is dealt with formally and urgently.

11. *Can you confirm that the FCA will be carrying out its own independent investigation of the events at Lloyds/HBOS between 2009 and 2017?*

Treatment of Sally Masterton

On 21st November 2018, we wrote to Mr Horta-Osório with specific concerns regarding his treatment of Sally Masterton. As you are aware, we have also written to you with these concerns and are of the view that the position of Mr Horta-Osório is untenable. I have attached our most recent correspondence with Lloyds for your consideration.

12. *Can you confirm that this is being thoroughly investigated under the Senior Managers and Certification Regime (SM&CR)?*

Compensation Scheme for Historic Cases

These deeply concerning internal compensation schemes provide further evidence of the need for a truly independent arbitration mechanism for businesses in disputes with their financial service providers, including those that have already gone through the Griggs Review and other ad hoc reviews.

UK Finance have proposed the establishment of a historic review of unresolved SME complaint cases since 2008. This scheme will not be fit for purpose unless the APPG can have a meaningful contribution to the design and eligibility requirements of such as scheme. As things stand, we are uncomfortable with arrangements for the eligibility, limits and governance of this scheme. If this is not done properly we will once again find ourselves running in circles with no meaningful resolution for those who have lost their livelihoods in the aftermath of the financial crisis.

I am aware that you spoke with our Director of Policy, Heather Buchanan, in December about this. The APPG proposes that the banks agree to a voluntary independent arbitration mechanism, modelled on a tribunal, which should be used as an appeal mechanism. It is critical that we do not fall into the trap of another 'independent' scheme that has been set up by the financial services industry.

13. Will the FCA support the APPG's modifications to the UK Finance proposals as detailed in the attached letter to the CEO of UK Finance, Stephen Jones?

Our objective is to aid the development of a system of regulation and redress that, for both bank and customer, justice is done and is seen to be done.

I look forward to hearing from you.

Kind regards,



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

Enc

Letter dated 30th July 2018 to Lord Blackwell

Correspondence with Lloyds regarding the treatment of Sally Masterton

Letter dated 13th December 2018 to CEO of UK Finance, Stephen Jones