



HOUSE OF COMMONS

LONDON SW1A 0AA

Lewis Shand Smith

5th March 2019

Dear Lewis,

Thank you for your email of 25th February. Whilst welcoming the steps taken by UK Finance and its membership to provide a new dispute resolution scheme for banks and businesses and your invitation to join the Implementation Steering Group (ISG), as we have set out previously in our letters to you of 14th February 2019 and to Stephen Jones of 31st January 2019, we have a number of addressable concerns.

Steering Group Composition

You state in your email that the group needs “strong representation for those SMEs that have had disputes with banks and can provide insight into the issues with current and previous redress and dispute resolution schemes” – we violently agree with this position.

We note that you have stated that you worked with all representative bodies to identify the most appropriate individuals and organisations to be represented on the Steering Group but, on the basis of the above statement, I feel that it was a missed opportunity not to consult the APPG or other bodies who have actively represented the businesses who have experienced mistreatment by banks in this process. Indeed, it may appear to some observers that these decisions seem to have been taken exclusively by UK Finance and the banks and that the current composition is weighted in favour of those that have an association with UK Finance.

There is no-one with a greater ability to provide “insight into the issues” than Nikki Turner of SME Alliance. I understand that you are meeting with Nikki shortly and very much hope you will extend an invitation to Nikki to join the group as a voting member and a crucial representative of SMEs. We have no objection to a balancing increase to the number of banking representatives.

We also suggest observer status invitations should be extended to Brian Little (adviser to the DUP) and Ian Lightbody (NAB Customer Support Group).

We welcome your offer of an additional APPG ‘observer’ and believe that Heather Buchanan, our Director of Policy, would be very suited to that role, assuming that observer status does allow for meaningful contributions.

These are, however, politically uncertain times. If, for instance, there is a snap general election the APPG would be dissolved during purdah, so I hope you will agree that it would be sensible that in certain circumstances that precluded my or a fellow parliamentarian’s attendance, Heather should remain on the ISG and take my voting place until the APPG is re-constituted.

Consultation on appointments

The appointment of a legal firm is an extremely contentious issue as many firms have been deeply involved in cases with SMEs. It is a significant concern that decisions are being made without the input and “insight” of the APPG or other groups such as SME Alliance and the NAB Customer Support Group. Those with direct experience of the issues need to be consulted before appointments are made, otherwise we may fall at the first hurdle.

Award Limits

We are encouraged that the Chancellor has directed that the banks' default position should be to pay the full amount awarded, rather than relying on the arbitrary limit of £350,000 and also that there is agreement that there must be a tracking mechanism for awards and payments above the binding limit.

Eligibility

We would like to see ongoing discussions regarding the turnover thresholds that decide eligibility to the historic scheme. We are concerned that a 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 backward looking scheme with a turnover threshold of £6.5m. We would advise that a balance sheet of £7.5m is used as the eligibility criteria for the historic scheme.

As the Chancellor has 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. These should include:

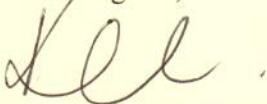
- Definition of 'event' and event date – we propose 1st January 2000. For the avoidance of doubt, there are a small number of claims dating pre-2000 that should be assessed on an individual basis.
- Review and inclusion of cases considered by ad hoc redress schemes e.g. IRHP/Griggs/Blackburne/CYBG/Appeals from FOS.
- Insolvent businesses. This is clearly an area that will require in-depth consideration as part of a sub-committee, of which I would be happy to chair.

Method of Dispute Resolution

We believe that disputes should be resolved by means of arbitration under the auspices of a body such as the Chartered Institute of Arbitration (CI Arb).

I have sent a copy of this letter to all members of the steering group.

Kind regards,



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

Cc

Rt Hon Philip Hammond MP, Chancellor of the Exchequer
John Glen MP, Economic Secretary to the Treasury
Implementation Steering Group Members
Andrew Bailey, Chief Executive, Financial Conduct Authority
Stephen Jones, Chief Executive, UK Finance