



Statement from the All-Party Parliamentary Group on Fair Business Banking

Letter to Sheldon Mills and Andrew Wigston of the FCA, 22/12/2020

Subject: Model litigant

Dear Sheldon and Andrew,

Further to our meeting last week and our discussion on dispute resolution, I wanted to bring up the Model Litigant principles, which are used in Australia:

<https://www.justice.qld.gov.au/justice-services/legal-services-coordination-unit/legal-service-directions-and-guidelines/model-litigant-principles>

The principles were originally established for conduct of the state in disputes, but post-Royal Commission into Banking, the largest banks in the country were forced to adopt the principles:

www.commbank.com.au/content/dam/commbank-assets/about-us/docs/2020-June18-Model-litigant-principles.pdf

<https://media.anz.com/posts/2019/02/anz-takes-action-on-royal-commission-recommendations>

Additionally, at the present time, in the UK, there is no financial deterrent for a financial institution to delay and obfuscate in cases where they have acted improperly. Indeed, this tactic invariably ends up minimising the exposure of a financial institution whilst, on the other, often causing life changing financial devastation and mental illness on the customers. It is an abuse of power at its worst.

We only need to look to the case of the HBOS Reading victims. Four years after the criminal conviction, a failed review and a scathing report into those failures, and the Bank has no obligations to compensate the victims for the years of their lives that the Bank has been found to have wasted.

To prevent the long standing and frankly scandalous denial of responsibility we have seen over these past 10+ years, the APPG would suggest:

- That a model litigant code of conduct is introduced into regulation of banks in all of their dealing with SMEs
- Strict and substantial financial penalties--payable to the customers--are introduced for cases where the bank has deliberately delayed, obfuscated and caused further detriment when it knows it is in wrong. We would suggest that these are on a sliding scale commensurate with the damage caused and chargeable per year. This would clearly incentivise banks to act reasonably and not use their significant firepower to wear down genuine victims of its own misconduct.

We would be very grateful for a further discussion in this area. The experience of the APPG is that the banks do everything in their (quite extensive) power to deflect, deny and delay dispute

resolution. And whilst the BBRS is a step in the right direction, a wholesale (enforceable) requirement for banks to act fairly in all their disputes with clear guidelines would be a seismic shift.

Kind Regard,

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