

**THE MOST SERIOUS FINANCIAL SCANDAL OF MODERN TIMES****30. LOOK OUT, VICTIMS - YOU ARE BEING ROLLED OVER !**

In late July, the Government announced a panel, which will examine inter alia the use of judicial reviews<sup>1</sup>. Following its defeat in two high-profile **judicial reviews**, the Government is considering restricting their use. Ironically, ordering an **independent review** remains the Government's preferred method of avoiding difficult issues and "kicking the can down the road" and it remains entirely free to instruct those, whenever it wishes.

**The rule of law supports the equality of all citizens before the law and is designed to protect them against their Government – to ensure it does not treat them unfairly, or arbitrarily deprive them of their rights. Yet, this is precisely what restrictions on judicial reviews would do, encroaching on the rights of the citizen and tilting the balance further towards the State.**

To add to that, two regulators, the Financial Conduct Authority (FCA) and the Solicitors Regulation Authority (SRA) announced separate plans in July to restrict the amounts of compensation payable to victims of their regulatory failure. Taken together, these three moves provide ongoing confirmation of co-ordinated action being taken by corrupt government and corrupt regulators. To say that all this stinks is a major understatement.

**Restricting the use of judicial reviews<sup>2</sup>**

Following high-profile defeats over Article 50 and the prorogation of Parliament, the Government announced on 31<sup>st</sup> July a review of administrative law, focussing particularly on the use by individuals of judicial reviews to challenge its decisions and those of other public bodies.

If enacted, this retrograde step would merely follow a number of previous moves. In 2012, the Government abolished legal aid for businesses, making it considerably more expensive, especially in the case of banking fraud, for victims to challenge their banks. It followed this in 2015, by increasing court fees by up to 600%, making such legal action even more costly and difficult to bring.

Judicial reviews have, in fact, not been excessively used because applications for judicial review declined by 44% between 2015 and October 2019. Yet, the Government is still considering restricting their use.

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<sup>1</sup> [https://www.gov.uk/government/news/government-launches-independent-panel-to-look-at-judicial-review#:~:text=justice%20and%20law-Government%20launches%20independent%20panel%20to%20look%20at%20judicial%20review,government%20today%20\(31%20July\).](https://www.gov.uk/government/news/government-launches-independent-panel-to-look-at-judicial-review#:~:text=justice%20and%20law-Government%20launches%20independent%20panel%20to%20look%20at%20judicial%20review,government%20today%20(31%20July).)

<sup>2</sup> <https://www.theguardian.com/law/2020/feb/11/what-is-judicial-review-and-why-doesnt-the-government-like-it>

### Official abuse of independent reviews

The Lord Chancellor, the political appointee Robert Buckland MP<sup>3</sup> has stated that this review is designed to ensure that “the process (of judicial review) is not abused”. However, who have comprehensively abused the system of independent reviews? The Government, the FCA and banks such as Lloyds Banking Group.

In the case of two supposedly “independent” reviews of the Halifax Bank of Scotland (HBoS) Reading fraud, Lloyds Bank and its lawyers worked closely with the FCA and HM Treasury to ensure that justice has been denied to the victims of the fraud three years after its immediate perpetrators were jailed. Following their successful prosecution in February 2017 and after consultation with the FCA, Lloyds Bank appointed Professor Russell Griggs, whose subsequent “independent” review was universally derided<sup>4</sup>. Later in May 2019, an eminent judge, Sir Ross Cranston was appointed and paid for, once again by Lloyds Bank, but his review of the Griggs review has been so comprehensively manipulated and corrupted by the bank, the FCA and Government that a re-review panel under Sir David Foskett has now been ordered. The result is that the process of independent reviews into banking wrongdoing and fraud can never be trusted again.

### Meanwhile, the FCA is rushing through a cap on compensation

On 24<sup>th</sup> August, the Times<sup>5</sup> stated: “The City watchdog has been accused by campaigners and its own complaints commissioner of rushing through a plan to minimise liability for its failings. Before the publication of three independent reviews into its competence, the FCA has proposed a cap on the compensation available from its complaints scheme...The independent complaints commissioner said the proposals “represent an explicit fettering of compensation for direct financial loss.”” The proposed cap on compensation of £10,000, where FCA actions or oversights have been the sole or primary cause of loss, is derisory, while the period allowed for the consultation, which was launched in July, is four weeks shorter than normal and the deadline is **5pm today**.

### ....and the SRA is doing likewise<sup>6</sup>

On 28<sup>th</sup> July, the SRA announced that it had decided to implement its controversial plan to reduce the maximum award from its compensation fund from £2mn to £500,000. It is also seeking to introduce a cap of £5mn on multiple connected claims, such as those arising from an investment scheme. The compensation fund makes awards to those who have suffered financial loss because of a solicitor’s dishonesty or failure to account for client money, where this is not covered by indemnity insurance. However, the SRA’s decision has been opposed both by the Law Society and the Legal Services Consumer Panel. Final hopes rest on the Legal Services Board, a non-departmental public body sponsored by the Ministry of Justice, which has still to approve the changes.

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<sup>3</sup> Whose professional conscience appeared untroubled by the potential breaking of international law via the Internal Market Bill.

<sup>4</sup> See Press Release 10.

<sup>5</sup> <https://www.thetimes.co.uk/article/financial-conduct-authority-rushes-to-minimise-compensation-for-its-failings-jzwpmjvr6>

<sup>6</sup> [https://www.legalfutures.co.uk/latest-news/sra-to-cut-compensation-fund-payout-limit-to-500k#:~:text=The%20Solicitors%20Regulation%20Authority%20\(SRA,charities%20and%20trusts%20with%20cl aims.](https://www.legalfutures.co.uk/latest-news/sra-to-cut-compensation-fund-payout-limit-to-500k#:~:text=The%20Solicitors%20Regulation%20Authority%20(SRA,charities%20and%20trusts%20with%20cl aims.)