



UK BANKING

*What is badly wrong
& how to put it right*

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This report is dedicated to my long-suffering wife
and my many friends, with the over-riding emphasis
placed on the victims of banking crime and those who continue
to suffer. Bankers have to act honourably and do the right thing.
RIP for all those suicide victims. God bless them and their families.

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Introduction

Banking used to be an honourable profession. Financial transactions have always been based on trust. Trust that the other party involved in the transaction will honour their side of the bargain. Hence, the motto of the London Stock Exchange is “My word is my bond”. As transactions speeded up, trust has been relegated in favour of regulation. However more recently, regulation has failed and especially following the 2008 banking crisis, it has failed deliberately, which may be surprising to some.

In November 2009, the Permanent Secretary to HM Treasury Nicholas Macpherson, its top civil servant in receipt of the best possible legal advice, refused to sign off a modified version of the Asset Protection Scheme (APS), which was designed to bolster the UK banking system. In fact, the APS authorised the two major banks, Royal Bank of Scotland and Lloyds, which had been bailed out by the taxpayer, to steal the assets of troubled business customers for the benefit of their own balance sheets. It was, in short, an illegal scheme and those who implemented it, knew exactly what they were doing but did it nevertheless.

Ever since, there has been a widespread and massive cover up. This has been directed by HM Treasury and Andrew Bailey, especially when he was Chief Executive of the Financial Conduct Authority (FCA). Now, he occupies the most important position at the heart of our financial system, that of Governor of the Bank of England.

With a lifetime of banking experience, I met Andrew Bailey on a number of occasions. The first involved HSBC regarding the media tax avoidance scheme, over which I recommended that significant disciplinary action should be taken against the Chairman and board. Instead, my report was buried. Another occasion involved a particularly egregious fraud undertaken by Lloyds Banking Group’s Business Support Unit, over which I offered him my assistance. That offer was never taken up. In retrospect, Bailey’s four years at the UK’s highest financial regulator were catastrophic, with the covering up of major banking fraud topping a long list of regulatory failure and nothing since has changed.

More disturbing still has been the manner in which successive Governments have used every arm of state to conceal this from public attention. Ministers, civil servants, regulators, prosecutors, the police and the courts have all been engaged in the cover up of widespread criminal fraud undertaken by the major banks and their professional agents. At the request of Government, the National Crime

Agency has for two years been refusing to investigate overwhelming evidence of the industrial forgery of signatures by banks and their use of deliberately invalid legal documentation, including in court. The overall position remains so serious that the press and media remain under suppression not to publicise the matter for fear that the general public gets wind of the massive scandal.

The major UK banks are adapting their outdated business models to cope with a new era of rapid change and reducing their number of branches aggressively. As mentioned, trust has taken second place in favour of regulation but regulation has failed and in important instances, failed deliberately and all of this overseen by a man, who is running our central bank. Even someone without any financial knowledge can appreciate that this is a recipe for disaster and likely to lead to further erosion of trust, as well as a major decline in the UK's reputation in financial services, which was previously considered to be the jewel in the crown of the British economy. Unless this is addressed as a matter of priority, it could even lead to a major financial crisis and a run on a leading bank.

This report takes us back to basics and reminds the reader of what lies at the heart of proper ethical banking. As the banking sector embraces rapid change, there is an essential need to incorporate these fundamental principles into the new business models which are adopted.

To address the widespread and often deliberate inadequacies in current regulation, I am recommending the establishment of two completely new regulators, which would replace the many others which have failed. The professional agents employed by banks should be controlled by a **Professional Complaints Regulator**, while Chairmen and Boards need to be restrained by a **Controller for Banking**, which is entirely independent from Government and HM Treasury.

These are radical proposals, which are designed to remedy a very serious situation. We need major reform of our entire financial and regulatory infrastructure to clean up the very obvious failings and also the extensive criminality, which has resulted from these short-comings. We cannot continue as we are, since it involves widespread disregard for the Rule of Law and the proper administration of justice.

My recommendations indicate how we can make a start along this vital path. I hope very much that they will be adopted in full.

Nigel Harper, Chartered Banker, MBA Banking, FCIB, ACIB FCBI, CeMap.

1. The banking profession and the public interest

The professional banker must display and demonstrate some specialism or competency that serves as a barrier to entry to most of the population. This may entail obtaining threshold levels of knowledge or demonstrating specific skills. The professional banker may face sanction or discipline for breaches of the laws or rules. For example, most institutes have the right to expel members for cheating in examinations or committing criminal acts that result in fines and custodial sentences.

To become a Chartered Banker, it is necessary to attain a minimum level of qualification, coupled with 15 years practical hands-on experience in the workplace. This requires acceptance for membership of a recognised professional body or institute.

In banking, the highest moral standards are promoted by banking institutes. Essentially, to act ethically implies that one must act in a manner that is right, either in relation to undisputed values held by society (deontological) or with reference to the consequences of actions (teleological).

Most professional bodies have strict disciplinary codes, which over time have been eroded and ignored by most.

2. Changes vital to restore law and order in UK financial services

- Duty of care for Treasury, regulators, bankers, financial services and all agents
- Whistle-blower protection and rewards – US model
- Controller for Banking
- Professional Complaints Regulator
- Professionalism and licencing of bankers

3. The problems identified by The Ethical Banking Standards Council

| | |
|--|---------------|
| I have prepared this scorecard on behalf of the Ethical Banking Standards Council to highlight the failure of various fundamental elements that make up the banking sector. Elements that underpin banking in the UK and whether Chairmen, boards, regulators, Government, Treasury and Chancellors have complied with these standards expected from professional bankers in this country. | Pass/ Fail |
| PEOPLE - overall score for section | FAIL |
| People need to be qualified bankers if they are going to opine on banking matters being practiced and proven, tried and tested lending bankers. Unqualified bankers have destroyed banking globally | Fail |
| Qualifications of Chairman and board members – BIS Regulations | Fail |
| Treasury Select Committees' control of bank Chairmen and CEOs | Fail |
| Bank of England's control over Chairmen and boards of banks | Fail |
| Performance of Prime Minister to ensure bankers act honestly, ethically, and morally with effective action taken, when bank shareholders are fined | Fail |
| Performance of previous Chancellors to ensure bankers act honestly, ethically, and morally with effective action taken, when bank shareholders are fined | Fail |
| Performance by previous Home Secretaries to ensure bankers act within societal and moral norms expected in banking | Fail |
| Performance of the Cabinet Office's control over bankers and banking to protect the public and customers | Fail |
| Performance of HMRC when dealing with tax avoidance and evasion | Fail |
| Control by regulators: Bank of England, FCA, NCA, SFO, HMRC and Police over investment bankers from US / Wall Street | Fail |
| Effectiveness of mayors in UK in investigating banking fraud and corruption for their constituents | Fail |
| Effectiveness of regulators' control of Chairmen and board members | Fail |
| Thames Valley Police and Crime Commissioner's prosecution and handling of the Lloyds / HBOS fraud | Pass |
| Supporting victims of banking crime by the regulators and authorities | Fail |
| Asset Protection Agency & National Audit Office's behaviour, when HM Treasury and the UK taxpayer owned bank shares | Fail |
| Whistle-blowers protected by regulators and Parliament | Fail |
| Integrity and honesty of regulators | Fail |
| COMPLIANCE WITH BANKING LAW AND PRACTICE | FAIL |
| Practice of banking | Fail |
| Principles of lending | Fail |
| Effectiveness of FSMA 2000 to deliver ethical and honest banking in UK | Fail |
| CORPORATE GOVERNANCE - overall score for section | FAIL |
| SYSTEMS & CONTROLS – overall score for section | FAIL |

4. Fines and penalties

The fines which bank shareholders and multinational companies pay are accepted as the cost of doing business by all Chairmen, boards, shareholders, creditors and stakeholders, with the approval of the Government.

FCA final notices and records kept in the United States reveal the extent of banking fraud and corruption globally.

[Lloyds Banking Group | Violation Tracker \(goodjobsfirst.org\)](https://www.goodjobsfirst.org/violation-tracker)

This tracks all the major international banks' fines in the US. Lloyds, Barclays, RBS / NatWest, HSBC, Virgin Money and others feature prominently.

Fines should be paid by Chairmen and directors to focus their accountability.

5. Background to purist banking

Prior to the late 70's and mid 80's, qualified professional time-served bankers were running banking in the UK. These qualified professionals were then replaced by salesmen and unqualified staff. Frequently termed "grey squirrels", they ensured the demise of the qualified, time-served, proven lending bankers termed "red squirrels". I witnessed this happening a great deal across the profession, with all banks being victims.

Today, there are few qualified professional bankers, or Chairmen and board members with knowledge and experience gained over thirty years, hands-on experience thus qualifying them as board material, as was once the norm throughout banking. They all had the appropriate training, qualifications and knowledge.

Today, unqualified buccaneers have driven all knowledge and standards out of banking, ably supported by similarly unqualified parliamentarians and regulators. It is a requirement for most professionals to be qualified and examined to prove their knowledge and competencies and be granted a licence to trade.

For example:

- Surgeons
- Nurses
- Medics
- Taxi drivers
- Gas fitters
- Electricians
- And a plethora of other trades and professions, for which qualifications are mandatory before they can work.

Why Is banking so different ?

6. The practice of banking

Although aptly named, actual practice has been evolved around an expansive legal framework. Knowledge of the points of law involved is essential before any banker can be in a proper position to make practical decisions.

The Chartered Institute of Bankers, now known as the London Institute of Banking and Finance, has a comprehensive range of examinations for lending bankers to pass before they can understand the rudiments of banking and be considered fit and proper persons. Both Moody's Retail Banking Academy International and the Chartered Banker Institute require applicants to demonstrate their detailed knowledge in this way.

The damage done to global economies by unqualified buccaneers has inflicted no end of misery on countries, their banking customers, depositors, shareholders and taxpayers.

There are no requirements for any banker to be qualified in this country for appointment to the board, or to act as Chairman.

7. Lending

Definition

To grant the use of a thing on the understanding that it, or its equivalent, shall be returned.

To allow the use of money at interest.

8. Security

Definition

The thing deposited as a guarantee or undertaking or loan, to be forfeited in the case of default or a document as evidence of a loan.

Shakespeare's "A Merchant of Venice" provides an interesting concept of security. "A pound of flesh", demanded by Shylock the money lender, from the borrower, Antonio.

Today, this is represented by personal guarantee documents, which bankers insist borrowers sign to support borrowing. Everything is on the line including homes, families, businesses, dreams and aspirations of bank customers and the country.

We saw the devastation wreaked by bankers globally in the 2008 banking crisis and other scandals.

The abuse by bankers and predatory insolvency practitioners has inflicted enormous damage upon the economy and SMEs' well-being across the UK.

9. What makes a successful lending banker?

Adopt and apply the principles of good lending, combined with an in-depth knowledge of banking. This involves being comfortable with the concepts of safety (stability), liquidity (the ability to repay) and profitability (the continued ability to maintain payments).

Identify lending services and analyse any special considerations appropriate to the various types of borrower.

Demonstrate an ability to recognise the causes and warning signs for potential bad debts. The monitoring of facilities is as important as the original approval. Lending can go wrong very quickly. The best lenders spot the danger signs early, which several lenders learned in the 90's and before that, the 1920's.

Understanding the stages and means of recovery for bad and doubtful debts. Those lenders, who do not spot lending going wrong, end up doing a lot of recovery.

Interpret balance sheets and the use of supporting financial information as a tool of the lender. A business communicates its health, or otherwise, through its accounts. Every lender must understand the balance sheet and its hidden messages.

Understand the general principles of security sought by lenders. The availability of security is no reason to lend. However, security does mitigate lenders' risks.

Demonstrate an understanding of the procedures for the taking, discharge and realisation of security commonly offered.

Do not lend, if you have not visited the business.

Trust your gut instinct – if something inside you says no, be incredibly careful about saying yes.

Remember that it is not your money. The money belongs to shareholders, depositors and others, who have lent to your financial institution.

Know the introducer: The group of professionals frequently unregulated and unqualified who advise borrowers. This group includes, but is not limited to:

- I. Accountants
- II. Solicitors
- III. Brokers
- IV. Financial advisers
- V. Vulture funds

- VI. Insolvency predators
- VII. Auditors
- VIII. Valuers
- IX. Rating agencies

10. The canons of lending

Issues to be addressed

Who am I lending to?

What am I lending it for?

Why am I lending it?

When will I get repaid?

How can I check I will / I am getting repaid?

Mnemonics

All lenders have various methods of codifying the above into user-friendly mnemonics. These are **CAMPARI, MARS, PARSER, CCCPARTS, 5Cs**. Others are used relative to the bank's practices, namely credit scoring and various spurious algorithms.

CAMPARI

Character: History and experience of business owner. Stability factors. Financial track record. Resources. Ability to repay, if things go wrong. Liabilities, assets, age and health.

Ability: Earnings and prospects. Professional qualifications and experience. Business track record.

Margin: Interest rate, commission, fees.

Purpose: Reason for request. Appropriateness of request.

Amount: Reasonable and correct in terms of purpose? What percentage will the customer contribute?

Repayment: Source - analyse income, expenditure and projections. Are other sources of repayment available ?

Insurance: Is security necessary? What is offered? What is available? Complete the security before making funds available.

11. Key assessment areas

In taking a more structured approach to lending, we can focus on the following key areas for risk assessment:

- The customer and his or her business.
- Asset cover for the advance (and security).
- Repayment ability / serviceability of debt.
- Monitoring of performance.

12. Professional ethics and regulation

Definition of ethics

Ethics consider what is right and wrong, and whether conduct by individuals and organisations is good or bad.

Right or wrong for whom? This can be considered in terms of:

- Ethics based on consequences.
- Ethics based on duty.
- Ethics based on virtues.

Ethics and professional relationships

To earn the right to be regarded as professionals, individuals and the organisations that employ them must maintain generally acceptable standards of behaviour.

Legal and fiduciary duties

Some distinguish between the letter, and the spirit of the law. The letter of the law is its literal meaning, while the spirit of the law suggests that people and organisations should behave in a manner that is consistent with the underlying intention of the law, as well as what the law says.

Fiduciary duty is the duty of trust, owed by one person to another. The concept is accepted in Common Law in relation to officers of corporate bodies but is extremely vague, when applied to organisations themselves and those working for them.

It is generally accepted, however, that organisations should pay due regard not only to their owners and those who govern, but also to various stakeholders affected by the enterprise.

13. Public Interest

This may be defined as:

The people's general welfare and well-being: something in which the populace as a whole has a stake.

Public interest has been completely ignored by Prime Ministers, Chancellors and HM Treasury and their victims are plentiful. The whole country has paid the price. Regulators fail this test of public opinion.

80,000 customer suicides are attributed to banking and related fraud globally since the 2008 financial crisis.

14. Core principles underpinning ethical behaviour

Integrity

Integrity refers to having high moral standards. This is usually interpreted as adopting behaviour, which is regarded as virtuous by society. A person who displays integrity will steadfastly adhere to his or her moral values, despite pressure exerted to do otherwise. Integrity is an important quality because laws, rules and codes cannot identify every situation or dilemma with which the individual may be faced.

Fairness

This refers to dealing with people and issues in an even-handed way, without favouritism or preference for an outcome based on personal value judgements.

Objectivity

This term refers to the willingness of the individual to view a situation from an entirely un-biased standpoint. This quality is particularly important in retail banking, where unjustified prejudices could result in a customer being treated inconsistently.

Probity

Probity refers to a willingness to consider an entire situation to arrive at the true picture. Looking at this negatively, those accused of wrongdoing are sometimes guilty of a lack of probity, as they do not take enough trouble to assess all the relevant facts.

Insolvency predators and failed managers are guilty of having a lack of honesty. This is an issue for Lloyds' victims, whose cases were delivered to the Home Secretary in May in the Operation Meadows' files. They have fallen foul of the worst types in modern-day banking.

Openness and transparency

This refers to an individual's preparedness to reveal or make available relevant or appropriate information. Transparency means not clouding an issue or concealing relevant details.

Judgement

Judgement is arriving at decisions or opinions, having full regard to the facts, and applying appropriate knowledge, skill and experience to arrive at an outcome.

Responsibility

Responsibility is a duty, obligation or burden. In a work context, it relates to what the individual has to do as part of the job. Taking responsibility refers to accepting and acting on the obligation, which can be difficult when there is an unpleasant outcome to an affected party.

Accountability

Accountability is taking ultimate responsibility for a duty, obligation or burden. It can be illustrated by the so-called Carrington principle. This was named after a former Minister in Margaret Thatcher's government who resigned believing himself to be accountable for intelligence failings during the invasion of the Falkland Islands.

Personal ethical stance

The ethical stance of an individual may be assessed with reference to the following:

- The extent to which an individual complies with laws, regulations, policies and codes, and insists that others within his or her scope of authority do so.
- The willingness to support generally-held ethical values, such as integrity, openness, honesty, probity and fairness.
- The ability to manage conflicts of interest.
- The promotion of the well-being of others, including colleagues, customers and other stakeholders.
- The willingness to uphold professional standards, even if this is contrary to the wishes of those in higher authority.
- The preparedness to raise issues relating to moral standards, including any refusal to act on unreasonable requests.

15. Bankers' code

There is little evidence that all the unqualified bankers within major banks have bothered to pass the examinations necessary to become a professional Chartered Banker. Indeed, there has been only one qualified banker on Lloyds' board, Alan Dickinson, whom I knew.

The codes above have all been ignored and broken by the bankers and buccaneers, who are masquerading as professional bankers.

The influences of the investment bankers cannot be under-estimated. They ply their trade and have destroyed retail banking standards globally.

They are getting rich quick merchants, who chase assets wherever they can be found. The vulture funds are ruthless and unregulated. Cerberus being a case in point, ably supported by Chancellors and the HM Treasury & City Minister, John Glen.

| Key Terms | Meaning and significance |
|--|---|
| Diligence | Paying attentive care. |
| Integrity | Having high moral standards. |
| Honesty | Telling the truth. |
| Trust | Trust means that one can be depended upon. |
| Appropriate confidentiality/sensitivity | Duty to keep secrets subject to law. |
| Respecting myself, colleagues and customers | Acting responsibly and collegiately. |
| Developing technical professional confidence | Continuous professional development to maintain skills and professionalism. |
| Compliance with legal obligations | Acting in a legal and lawful manner. |
| Managing conflicts of interest | Be prepared to stand aside when conflicts occur. |
| High quality of management, communication and leadership | Leadership is influencing others requiring both non-verbal and verbal skills. |
| Managing risk | Using skills to mitigate risks for all. |
| Valuing colleagues, encouraging development | Teamwork versus personal ambitions. Both must be balanced. |
| Responsibility to employer | Loyalty, trust and faithful service to the bank. |

16. The FCA's Principles

| FCA's Principles of Business | Description | Applicable to commercial lending (currently unregulated) |
|--|--|--|
| Integrity | A firm must conduct its business with integrity. | NO |
| Skill, care & diligence | A firm must conduct its business with due skill, care and diligence. | NO |
| Management & control | A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems. | Yes |
| Financial prudence | A firm must maintain adequate financial resources. | Yes |
| Market conduct | A firm must observe proper standards of market conduct. | NO |
| Customers' interests | A firm must pay due regard to the interests of its customers and treat them fairly. | NO |
| Communications with clients | A firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading. | NO |
| Conflicts of interest | A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client. | NO |
| Customers: relationships of trust | A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment. | NO |
| Clients – assets | A firm must arrange adequate protection for clients' assets, when it is responsible for them. | NO |
| Relations with regulators | A firm must deal with its regulators in an open and co-operative way and must disclose to the appropriate regulator anything relating to the firm of which the regulator would reasonably expect notice. | Yes |

Source: Treasury Select Committee report on SME lending, Oct. 2018, pp. 23-24.

Shockingly, only three out of the FCA's eleven "Principles" currently apply to commercial lending !

The FCA's regulatory perimeter does not exempt anyone from behaving ethically, morally, truthfully and honestly, with openness, transparency and integrity.

17. Fines levied by regulators

Why has Lloyds Banking Group retained its banking licence and stock market listing? Why have RBS and others done so?

The fines levied since 2001, when Gordon Brown took control of the banking sector and set up the corrupt and failed Financial Services Authority (FSA), ethically and morally corrupted, represent a complete breakdown in banking corporate governance, which still needs to be resolved.

The fines, which regulators have levied and their explanations for them, do not reflect the level of failings experienced within banking. Where is the skill displayed in being fined?

Whether it has been Lloyds' former Chairman, Lord Blackwell and his board lying at the bank's AGM and to shareholders, or providing deliberate falsehoods to regulators. The fines paid by banks globally exceed £330bn since 2000. One fine is one too many. Chairmen and CEO should have resigned.

How can a banker be described as a "fit and proper person", when they and their shareholders have paid so many fines?

18. Summary

RBS, Lloyds Banking Group and many others have broken all the FCA's "Principles of Business". Yet, the regulators have done nothing. The fines levied by the regulators for these banks represent only a fraction of their transgressions of these Principles.

The number of suicide victims witness their total failure to run the bank properly. Every one of these Principles applies to all staff employed in banking, where a banking licence and stock exchange listing is held.

Lloyds' senior management have failed corporate governance standards within the bank. Lying seems to come as second nature to their Chairman and board. Look at the damage they inflicted upon Sally Masterson, the HBoS / Lloyds whistle-blower, a good and honest banker and a well-respected friend.

Almost every "independent" report has criticised the management, board and Chairmen.

The Lord Turnbull Report, Griggs Review, Cranston Report, Promontory Report, Walker Report, the Dobbs Review now postponed into 2022, as well as the damning report published by Dame Elizabeth Gloster. All without exception highlight serious deficiencies in our regulators, bankers, HM Treasury, and the Government's handling of the 2008 banking crisis.

Anthony Stansfeld, the former Police & Crime Commissioner for Thames Valley, witnessed extreme ethical and moral detriment by Lloyds' Chairman and board members.

The All Party Parliamentary Group (APPG) for Fair Business Banking has highlighted all the failings of the bankers in this country.

I am most fortunate to have worked for some of the best bankers in the land, whilst learning my profession at Lloyds Bank Limited. Sir Jeremy Morse was a great banker and a true professional. I enjoyed my secondment working with him.

Others that deserve mention are John R. Meek, Edwin Bryett, and Jock Skinner - all great bankers at Lloyds. I was honoured to work with them, they taught me well.

Analysis of over sixty victims' claims against Lloyds Banking Group has clearly demonstrated that the bank has not followed established banking rules, codes and laws, when dealing with those customers.

One victim could be said to be a mistake. However, the thousands of victims that are alleged to have suffered and have still to be identified and heard is a matter of grave concern.

HM Treasury must accept equal blame for the failures of regulators, bankers and their agents.

They permitted the environment to become toxic and fraudulent, with the corruption and lawlessness associated within banking today.

Chairmen and board members, who allowed this level of failure to exist within my profession, should be prosecuted for crimes against the country and state. We have all paid the price and there is no trust in banking, and this extends to accounting firms, lawyers, insolvency predators, property valuers, securitisation intermediaries and the ratings agencies. The courts are impotent and do not understand the rudiments of banking.

19. Basel guidelines on corporate governance

The Basel Committee on banking supervision, which operates under the auspices of the Bank for International Settlement (BIS), the central bankers' bank, have issued the following guidelines, which again are termed "Principles".

Sound corporate governance underpins effective risk management and public confidence in individual banks and the banking system. Given fundamental deficiencies in banks' own systems, which were exposed in the last crisis, a new core principle was added, bringing together existing criteria in the assessment methodology and giving greater emphasis to sound corporate governance practices. Similarly, the Committee reiterated the key role of robust market discipline in fostering a safe and sound banking system by expanding an existing core principle into two new ones dedicated respectively to greater public disclosure & transparency and enhanced financial reporting & external audit.

Principle 1: Board's overall responsibilities

"The board has overall responsibility for the bank, including approving and overseeing the implementation of its strategic objectives, governance framework and corporate culture. The board is also responsible for providing oversight of senior management." Members of the board should exercise duties of care and of loyalty to the bank. It should reinforce "the tone at the top".

The board is responsible for overseeing a strong risk governance framework, including a review of key policies and controls, and should be active when defining the risk appetite and ensuring alignment within the bank. It should ensure the efficacy of the risk management, compliance and internal audit functions. The board should select the Chief Executive and provide oversight of senior management.

Principle 2: Board qualifications and composition

Board members should be and remain qualified, individually, for their positions. They should understand their oversight and corporate governance role and be able to exercise sound, objective judgement about the affairs of the bank.

Composition

An independent director, as stated in the Basel guidelines' glossary, is a director who is "a non-executive member of the board, does not have any management responsibilities within the bank and is not under undue influence, internal or external, political or ownership that would impede the board member's exercise of objective governance."

Qualifications

- Board members should have a range of qualifications, knowledge and experience in relevant areas and have varied backgrounds and promote diversity of views. Relevant areas of competence may include, but are not limited to, capital markets, financial analysis, financial stability issues, financial reporting, information technology, strategic planning, risk management, compensation, regulation, corporate governance and management skills.
- The board collectively should have reasonable understanding of local and, if appropriate global, economic and market forces and of the legal and regulatory environment. International experience, where relevant, should also be considered.
- Individual board members' attitudes should facilitate communication and critical debate in the decision-making process.
- Continuing professional development is necessary for all board members.

Principle 3: Board's own structure and practices.

"The board should define appropriate governance structure and practices for its own work and put in place the means for such practices to be followed and periodically reviewed for ongoing effectiveness."

Principle 4: Senior management

“Under the direction and oversight of the board, senior management should carry out and manage the bank’s activities in a manner consistent with the business strategy, risk appetite, remuneration and other policies approved by the board.”

Senior management should consist of a core group of individuals responsible and accountable to the board for the sound and prudent day-to-day conduct of the bank.

Principal 5: Governance and group structure

“In a group structure, the board of the parent company has overall responsibility for the group and for ensuring the establishment and operation of a clear governance framework appropriate to the structure, business and risks of the group and its entities. The board and senior management should know and understand the bank group’s organisational make-up and the risk that it poses.”

Principal 6: Risk management function

“Banks should have an effective independent risk management function, under the direction of the chief risk officer (CRO), with sufficient structure, independence, resources and access to the board.”

The function is a key component of the bank’s second line of defence and is responsible for overseeing risk-taking activities.

Large, complex and internationally active banks based on their risk portfolio and local governance requirements should have a senior manager with overall responsibility for this function.

Appointments, dismissals, and other changes to the CRO position should be approved by the board. It should be disclosed publicly, if this officer is removed from their position.

Principle 7: Risk identification, monitoring and controlling

“Risk should be identified, monitored and controlled on an ongoing bank wide and individual entity basis. The sophistication of the bank’s risk management and internal control infrastructure should keep pace with changes to the bank’s risk profile, to the external risk landscape and industry practice”.

Principle 8: Risk communication

“An effective risk governance framework requires robust communication with the bank about risk, both across the organisation and through to the board and senior management.”

Principle 9: Compliance

“The bank’s board of directors is responsible for overseeing the management of the bank’s compliance risk. The board should establish a compliance function and approve the bank’s policies and process for identifying, assessing, monitoring, and reporting and advising on compliance risk.”

An independent compliance function is another key component of the bank’s second line of defence and is responsible for ensuring that the bank operates with integrity and in compliance with applicable laws, practices, regulation and policies.

Principle 10: Internal audit

“The internal audit function should provide independent assurance to the board and should support it and senior management in promoting an effective governance process and long-term soundness of the bank.” Internal audit functions cannot be abrogated.

An effective and efficient internal audit function constitutes the third line of defence in the system of internal controls. The internal audit function should have a clear mandate, be accountable to the Chairman and board and be independent of the audited activities. It should be publicly disclosed, if the chief audit executive is removed from their position and the reason should be discussed with the bank supervisor.

Principle 11: Compensation

“The bank’s remuneration structure should support sound corporate governance and risk management.”

The board, or by its delegation the compensation committee, is responsible for the entire remuneration system for the bank. Incentives and bonuses are a weak point and reward bad practices and change behaviour from the societal norms expected of an honest banker. Targets are also dysfunctional and lead to fines, which banks pay for the breaking of regulations.

Principle 12: Disclosure and transparency

“The governance of the bank should be adequately transparent to its shareholders, other relevant stakeholders and market participants.”

This is a fundamental requirement and constitutes a necessary obligation upon Chairmen and board members. All banks should, as a minimum, disclose annually the recruitment approach for its selection and composition, whether the bank has board committees and how often key standing committees have met.

In general, banks should apply the disclosure and transparency selection of the OECD principles. Key points concerning risk exposures and risk management strategies should be disclosed, without breaching necessary confidentiality. Disclosure should be accurate, clear, honest and timely.

20. The role of supervisors

Supervisors provide guidance for and supervise corporate governance at banks, through comprehensive evaluations and regular interaction with boards and senior management. They should require improvement and remedial action as necessary, and share information on corporate governance with other supervisors.

They should conduct comprehensive evaluations of a bank's corporate governance and regulate effectively. They are required to interact with directors and senior management to assess fitness of purpose of the board and senior managers.

When a bank is fined, supervisors should impose strict standards and benchmarks for the Chairman and board members to attain. If they fail to achieve them, it should lead to their sanction or suspension from the board and / or prosecution.

Anyone who professes to be a banker cannot continue to ply their trade outside the FCA's regulatory perimeter. Those who fail to act ethically, morally and with integrity should be expelled. Exploitation of the perimeter encourages dishonesty and corrupt practice across banking.

Societal norms and standards of behaviour are the governing factor. Doing what is right for the customers and stakeholders are the essential element of honest banking.

21. Factors hindering sound governance and banking practice

(see Scorecard, p. 7 and Appendices, pp. 36-37)

FSMA 2000 and the 2010 amendments. This legislation needs to be reviewed to remove wriggle room for agents to abuse. Those who were co-opted into HM Treasury and drafted the Act and its amendments, had no wish to place stringent rules in place, so that bankers could be challenged, if they failed to comply with regulations.

Senior Managers and Certification Regime (SMCR) - proven not to work. Otherwise, those bankers who were fined would be out of a job. The structure we have in place is unworkable because it encourages lengthy litigation and confrontation for those who are “guilty as charged.”

Employment law defeats good governance. Banking is a privileged profession and employment law must reflect this. Customers’ health and wealth are at risk, should systemic fraud continue unchecked. All employment contracts within financial services and banking must reflect the privileges which bankers have. They must include immediate suspension from duty, sacking and prosecution, as was once the case.

Board directors should sign an open-ended personal guarantee, so that if they are fined, the bank can liquidate a director’s assets and recover the amount of the monies paid in compensation. This would prove highly effective in controlling the Chairman and board’s reckless behaviour and policies.

Employment law needs re-writing to impose shadow director obligations on banking staff dealing with customers and tightening up in this regard.

UK General Data Protection Regulation (GDPR), which is formulated by the Data Protection Act 2018, sets out seven key principles:

- Lawfulness, fairness and transparency
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)
- Accountability

Data Protection Act 2018 itself needs redrafting, so that regulators and enforcement agencies (SFO, HMRC, NCA & the Police) are removed from the secrecy obligations imposed by the Act. Criminals use this to great effect, when undertaking money laundering, fraud, market abuse and corruption generally. Regulators must have access to all the facts and the delays caused by the Act cause irreparable damage to prosecutors.

Companies Act 2006 excludes bankers from prosecution, when they act as shadow directors. The test is whether they are involved in selling customers' assets upon default, whether real or engineered by bankers. They must be eligible to be prosecuted on the balance of probabilities. Insolvency practitioners are known to trawl the banks in search of rich pickings. Lloyds Banking Group's insolvency predators had contacts with vulture funds, with Cerberus and Better Capital among those which have benefitted.

European financial regulations

Including:

- Alternative Investment Fund Managers Directive (AIFM) for investment funds.
- Capital Requirements Directive (CRD) for bank capital.
- Markets in Financial Instruments Directive 2004 (MIFIR, MiFID-I, MiFID-II)
- Transparency Directive.
- Undertakings for Collective Investment in Transferable Securities Directive 2009 (UCITS).
- Directive 2002/83/EC of the European Parliament and of the Council of 5th November 2002 concerning life assurance.
- Payment Services Directive.

All the above need robust enforcement, subject to the Bank of England's adoption of some of these regulations in the future.

Ineffectiveness of EU financial directives

The ECB and IMF are at the hub of the continuing corruption and fraud carried out by investment, retail, and banking generally. The culture surrounding fines is embedded within the structure.

All agents representing bankers and banking groups are guilty of corruption and fraud, as evidenced by the plethora of fines paid by bank shareholders globally. The agents have also paid significant financial penalties. Accountants and lawyers should not be absolved from fines.

Despite numerous commissions, investigations and reports, behaviour still leaves much to be desired. Conduct has not changed because the law is impotent and ineffective.

Unqualified buccaneers are still leading banking. HSBC, Credit Suisse and Deutsche Bank represent good examples of thoroughly corrupted banks. Their fines speak volumes.

22. Taxation

Abuse of the UK taxation system has gone too far. Multinationals use UK tax jurisdictions and havens as their playground. Tax laws must be simplified and designed to constrain egregious litigation from agents. HM Treasury co-opts accountants, lawyers and others to construct banking laws and loopholes are deliberately incorporated in the law. SMCR and FSMA are classic examples of ineffective and impotent laws, which govern banking and financial services in the UK.

23. The Way Forward

Since the 1970's, deregulation, computerisation and the development of sophisticated financial instruments have transformed the financial world. As the volume of transactions has risen, processes have speeded up and regulation has replaced trust in order to oblige financial institutions to act responsibly. As regulation has increased, reliance on trust should, in theory, diminish. However, that has not happened in practice.

Commercial lending has remained unregulated at the specific request of the banks. Business customers have been left deliberately unprotected and

open to widespread abuse, which has duly taken place. Instead of addressing the wrongdoing and dealing with it comprehensively, regulators have preferred to cover it up and have received comprehensive assistance in doing so from Government and the Establishment. In contrast to the US, fines levied by the British regulator have been inconsequential.

None of the checks and balances, which should act as the alarm bells in our financial system have worked. The accounting firms and credit rating agencies remain far too closely aligned to the banks, while leading firms of lawyers have been enlisted to help the banks cover up serious wrongdoing. Unlike in Australia, the opposition in Parliament has been indifferent to this major issue, while the UK press and media have long abandoned their role as watchdogs over the powerful. Taken together, this has amounted to a lethal cocktail, which has allowed widespread misconduct and criminality to go unpunished. This has been disastrous for those business customers, who have been become entrapped by the banks but it is also catastrophic for our country and its reputation for honesty and integrity.

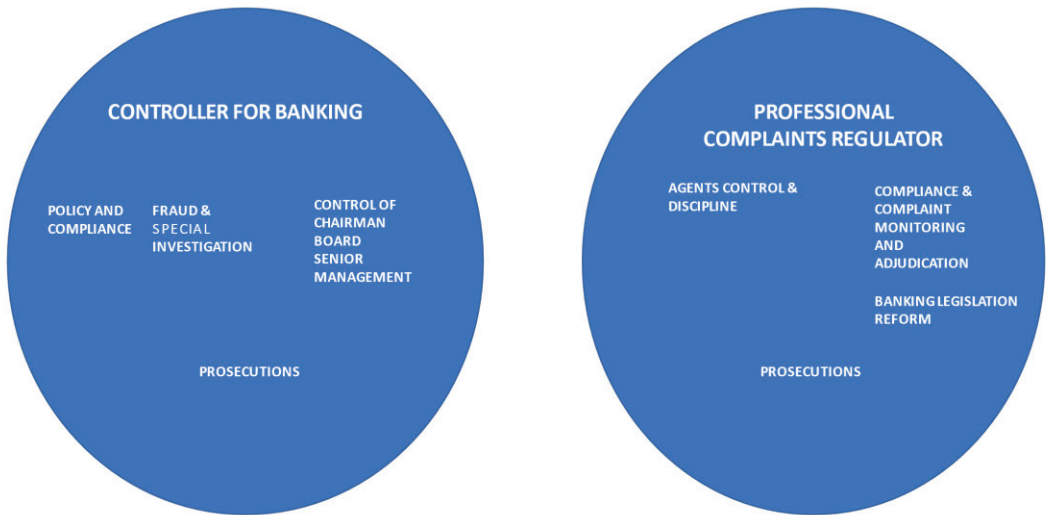
As a leading global financial centre, the City of London remains critically important to our economy. However, its interests were neglected in the Brexit negotiations and we cannot afford to jeopardise its position any further with the ongoing collapse in standards. We must also not undermine public trust in our financial system. The whole arrangement of regulatory oversight has become corrupted, with systemic wrongdoing ignored and covered up, and through contempt for due process and disregard for the proper administration of justice.

As the banks' traditional business models come under new and unprecedented challenge, a return to basic principles of sound banking is necessary. We cannot continue as we are because the current position is completely unsustainable.

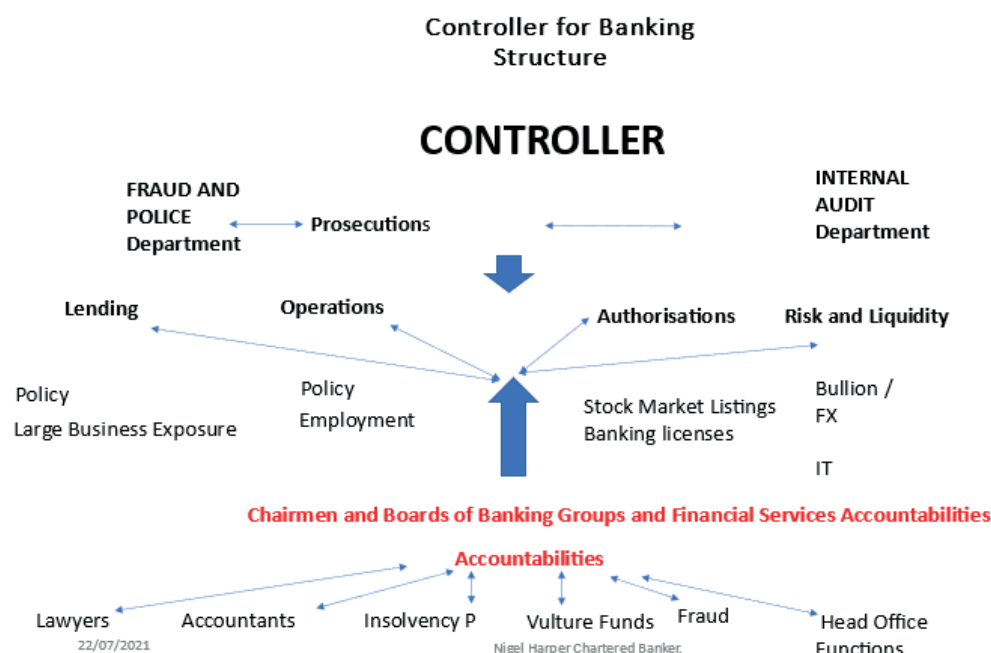
24. Conclusion

- Two new regulators, a **Controller for Banking** and a **Professional Complaints Regulator** should replace all other financial regulators.
- Egotistical hubris must be set aside. Truth, honesty, openness, justice, integrity, high moral and ethical standards are required, with qualified bankers leading the profession once again.
- There is no room for “grey squirrels”, who have damaged the fragile infrastructure that banking represents. Banking is a “privileged profession” and bankers are trustees of the wealth of depositors and the nation.
- Laws must be redrafted putting the sound qualities mentioned above before the self-interest of multinationals, which have so destroyed the foundation of government, banking and justice.
- I am one of the few professionally qualified, time-served, lending bankers in the UK and working at the highest level over many years and responsible also for teaching and examining banking students. Ever since the inception of the failed regulator, the FSA, banking standards have been diluted and debased.
- All professions aligned to the financial services sector must be regulated and I am recommending two new regulators, which would be suitably equipped for the task.

PROPOSED REGULATORY STRUCTURE



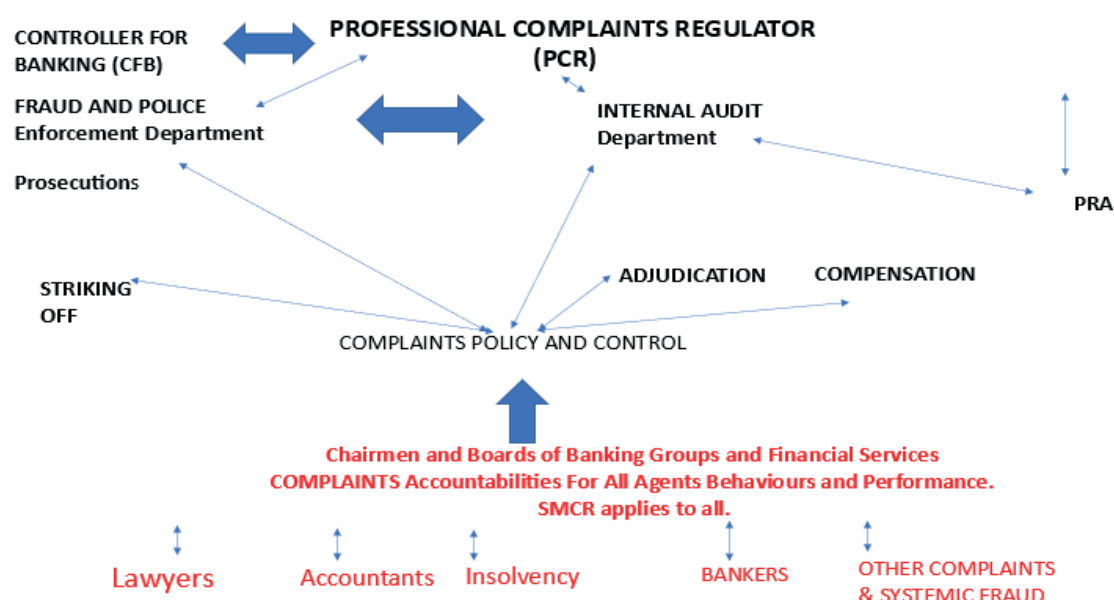
25. CONTROLLER FOR BANKING – the structure that would work



Controller for Banking would subsume arms of the the National Crime Agency (NCA) and Serious Fraud Office (SFO). The fraud and crime agencies would therefore be incorporated within its remit.

Led by qualified time-served and proven professional bankers, the CFB would impose on all Chairmen that employ agents, the obligation and accountability for their activities and actions. They would be liable for their wrongdoing. A vastly different approach than we have today, where very few are ever held accountable.

26. PROFESSIONAL COMPLAINTS REGULATOR



Complaints received by banks are the bellwether indicator that Chairmen and boards' senior management rely upon to ensure that sound corporate governance is evident across the whole bank. These affect everyone and need to be properly addressed.

Complaints identify failings in people, governance, systems, controls and operations. When acted upon immediately, they ensure that customers and depositors are secure and satisfied with the bank.

The Professional Complaint Regulator's role will be to ensure that all complaints received across the banking spectrum are captured, monitored, controlled, and actioned speedily and effectively, to ensure expeditious resolution of customers' problems.

All agents would be regulated by the Professional Complaints Regulator, without exception.

Once these two new regulators have been appointed, all other regulators could be closed, saving billions every year. There would be no need for any other financial regulator.

The Data Protection Act, FSMA, Company Law, Employment Law and the Official Secrets Act are all barriers to effective regulation.

A Controller for Banking and Professional Complaints Regulator are vital to clean up regulation in the UK. The CFB will have forensic oversight of Chairmen and Boardroom activities. Every element of the underwriting process will be examined for each bank to ensure probity and fidelity.

The PCR must have free reign over all professions, so that systemic failures are spotted and resolved quickly and effectively. Contagion needs to be eradicated.

27. Critique of the FCA

Current FCA structure

- Supervision - retail and authorisations
- Supervision - investment, wholesale, and specialists
- Strategy and competition
- Enforcement and market oversight of rules and law
- International
- Risk and compliance oversight
- General council
- Corporate governance
- Internal audit
- Operations

The FCA board is unqualified, unwieldy and has failed in its role as custodian of banking and financial services. The job specification for Chief Executive of the FCA is out of date and does not enforce accountability. There is no evidence of anyone being censured on the regulator's board for failing to regulate responsibly. Based on its past performance, the FCA should be closed.

HM Treasury has fettered its effectiveness and the influence of the banking sector has led to the "tail wagging the dog." Excessive interference by Chancellors has enabled corruption to flourish unabated. Bankers have ridden roughshod over the FCA and their relationship has been incestuous and debilitating. In short, it is a cosy club, which needs shaking up.

28. Proposed regulatory structure

Controller for Banking (CFB)

Controlling Chairmen and board, their conduct and policies

- Corporate governance and banking policy / underwriting
- Policy enforcement with risk and compliance oversight
- Oversight of Chairmen and their boards
- Police, SFO and Judges are to be controlled to ensure that victims are respected by Judges in preference to the bankers, who lie without equivocation before the Courts.

Professional Complaints Regulator (PCR)

Identifying systemic risk and contagion, then acting swiftly to close down poor behaviour

- Enforcement
- Victims' support and adjudication of claims, without recourse to litigation by bankers
- Market oversight – Senior Managers and Certification Regime (SMCR)
- Strategy and competition – monitoring systemic risks to the economy
- Training

Head office functions

- Reporting to the Controller for Banking (CFB)
- General Council
- Internal Audit
- Operations

Reporting lines

The Professional Complaints Regulator would report directly to the Controller for Banking and the Treasury Select Committee, and indirectly to the Governor of the Bank of England.

Other responsibilities:

Legacy issues - litigation

Removing egregious litigation by bankers against their customers is a starting point. The PCR would be the arbiter.

Underwriting policies

A review of all underwriting practices is vital to ensure that bankers learn to turn down weak loan applicants. Lending money based on the value of security is never banking.

Integration with law enforcement

Integrating units of the NCA, SFO and fraud and corruption specialists.

Banking practice

Lifting the bonnet on banking practices to eradicate corruption and fraud within financial services.

Bonuses

The bonuses paid by Lloyds and RBS for failing the country are obscene. When has a bankrupt company paid bonuses to failed Chairmen and executives? Never, I would suggest, apart from bankrupt banking – this must stop.

Responsibility and accountability

A complete re-think is required to ensure that in future, accountability and responsibilities are enforced within a restructured regulator.

Real concerns should be focused on the victims of crime, corruption and fraud. These elements are missing from the current job description. This indicates a lack of understanding by HM Treasury of what exactly is necessary to regulate financial services.

To appoint an unqualified politician to this role, in preference to a qualified professional time-served and proven lending banker, or a Police & Crime Commissioner, who has done the dirty work fighting banking crime, is a recipe for failure.

The public deserves better because the overall task is far too big for one person. It should be split into **enforcement** by means of the **Controller for Banking and regulation** through the **Professional Complaints Regulator**.

This presumption is based upon the changes in the law I have recommended.

29. Appendices – scorecards

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| | |
| CORPORATE GOVERNANCE - overall score for section | FAIL |
| FCA and FOS' handling of complaints in a timely and effective manner | Fail |
| Stock Exchange listing rules upheld | Fail |
| Judiciary's understanding of the corruption and fraud practiced by bankers in the UK | Fail |
| Safe and honest corporate governance in UK banking | Fail |
| Banking licence regulations and authorisations upheld | Fail |
| Police and Action Fraud's investigation of banking criminals and their agents | Fail |
| Chairmen, CEO and board of FCA fit for purpose | Fail |
| Banking institutes regarding bankers' adherence to their codes and decency vital to control banking | Fail |
| Fines bank Chairmen and Boards have paid on behalf of shareholders, stakeholders and creditors | Fail |
| Bank Chairmen and boards' effective control over agents' behaviour and actions | Fail |
| Agents acting on behalf of bankers acting honestly, ethically, morally and truthfully with integrity, to protect and uphold banking standards and bank customers; acting within SMCR regulations, which should apply to all agents | Fail |
| HM Treasury and civil servants' maintenance of banking standards and probity | Fail |
| Prudential Regulation Authority's control over systemic risk and governance | Fail |
| Agents / employees acting honestly and truthfully, when dealing with complainants and victims of banking crimes | Fail |
| Do FCA Chairman and CEO possess relevant banking qualifications by examinations, not honorary awards? | Fail |
| Do regulators' employees hold professional qualifications that apply to the job in hand? | Fail |
| Do FCA, FOS and other regulators employ the right calibre staff? | Fail |
| Industrial forgery of signatures by banks and their use of deliberately invalid legal documentation, including in court | Fail |

| | |
|--|-------------|
| SYSTEMS AND CONTROLS - overall score for section | FAIL |
| Securitisation of debt is not appropriate, when it moves the debt from being regulated loans to unregulated, viz Cerberus | Fail |
| Turnbull, Commission on banking standards, Turner, Griggs, Sir Ross Cranston Review, Treasury Select Committee interviews of Chairmen and CEOs. Dobbs Review purposefully delayed. Very telling was the treatment of Sally Masterson | Fail |
| Bank charges, commissions and fees used by bankers to pay their fines | Fail |
| Control, monitoring and actioning of customer complaints at the FCA, which flagged up systemic failures across all banking in the UK | Fail |
| One complaint unanswered and unresolved is a failure | Fail |
| Failure to treat customers fairly and maintain robust systems and controls? | Fail |
| Failure to respect staff and treat them fairly and tell the truth, when questioned by the public | Fail |
| Dame Elizabeth's Gloster's review is extremely critical of Andrew Bailey FCA CEO and now Governor of the Bank of England | Fail |
| Honest conduct of Chairman and boards at AGMs | Fail |
| Business Banking Resolution Service (BBRS) set up to underpin the banks. They are not independent. Conflicts of interest | Fail |
| Is APPG Fair Business Banking committee effective? If so, why are victims waiting so long for compensation? | Fail |
| Have lawyers, accountants and insolvency predators acting as advisers to HM Treasury written the rules to suit those depositors, shareholders, or customers and other stakeholders of banking groups, whom they are supposed to protect? No, they have written them, so that they are the beneficiaries of their own flawed legislation and laws | Fail |
| Prevention of bribery and corruption by bankers of UK politicians – revolving door appointments | Fail |
| HM Land Registry protecting homeowners and property from egregious banking fraud? Securitisation has resulted in misconduct and fraud in relation to the correct registration of titles | Fail |
| Does Companies House act prudently when registering Directors and charges by companies? | Fail |
| FCA and HM Treasury's protection of whistle-blowers | Fail |
| HMRC's control of money laundering as regulators | Fail |
| Is SMCR policing by FCA effective? | Fail |
| Former Prime Ministers and Chancellors' failure to prosecute Chairmen and boards of Lloyds for extreme detriment caused to their customers by its Business Support Unit (BSU), which was the direct responsibility of Horta-Osorio, CEO of the bank | Fail |

30. BBRS – a totally flawed scheme

True purpose – to cover up all wrongdoing and award minimal compensation

The Business Banking Resolution Service (BBRS) was devised after the Walker Review in November 2018 by the former Chief Executive of the Financial Conduct Authority, Andrew Bailey and HM Treasury ostensibly to compensate the historical victims of serious banking misconduct. However, its true purpose is to cover up the illegal wrongdoing, which they had together initiated in 2009 with the Asset Protection Scheme (APS). Lloyds paid £2.5bn to opt out of the APS and reverted to its existing scheme, which had been turned into a profit centre two years earlier. After more than a decade of cover up of bank wrongdoing, the BBRS is designed to euthanise the remaining victims at the lowest possible cost. It is an entirely voluntary arrangement with no statutory powers and makes a mockery of due and proper process.

There is nothing satisfactory about the BBRS. Proper compensation, transparency and accountability are nowhere to be seen.

Eligibility criteria – should be entirely waived

There should be no reason for any eligibility criteria. Why should the long-standing victims of serious banking misconduct and criminal fraud have to compete to enter a compensation scheme? The BBRS criteria for eligibility – minimum turnover of £1mn and gross assets up to £5mn – are unfair and unreasonable and represent an overzealous and bank-biased topping and tailing of eligible complaints. They appear designed to exclude, rather than include, as many cases as possible.

The Implementation Steering Group (ISG) concluded that the BBRS should not overlap with the Financial Ombudsman Service (FOS). However, many cases eligible for FOS based on turnover and size were refused access for a range of reasons including complexity, insolvency or as a result of evidence or allegations of criminal conduct. These cases have now also been unfairly excluded from the main BBRS scheme, as well as from any independent investigation and adjudication, which does not first rely on the goodwill of the bank. This is a preposterous and indefensible scenario, given that the bank would not be faced with a potentially serious BBRS investigation, were it not for the fact that it had

already critically failed to properly deal with the customer's complaint in the first place.

Caroline Wayman resigned as Chief Executive of FOS in March against the background of 158,000 outstanding complaints. The emphasis of the BBRS should be placed on resolving complaints, rather than worrying about any overlap with another failing financial regulator.

Prior to the BBRS launch in February 2021, most reference to business size eligibility on the BBRS website, registration and pilot application forms referred to net assets. Following the launch, this was altered to gross assets, with the BBRS claiming the previous references to net assets were caused by numerous administrative errors. These have unfairly served the banks' position by ensuring the greatest possible blanket exclusion of SMEs, and in this case of those with assets, which were demonstrably the largest group historically targeted by the banks including Lloyds / HBOS, Lloyds BSU, RBS' Global Restructuring Group (GRG) and Interest Rate Hedging Product (IRHP) mis-selling.

The BBRS eligibility criteria should be entirely waived - or the scheme is in danger of collapse.

Concessionary / boundary cases – improper adjudication

In May, the BBRS policy adviser, Laurenz Gerger wrote: "We may be able to consider complaints that fall outside our eligibility criteria provided that we, the customer and the bank agree. Where the BBRS considers that we should be able to look into a complaint, we will ask for the bank's agreement."

It is entirely improper that banks, which are accused of serious professional misconduct and criminal fraud, should have any say whatever in deciding whether concessionary cases are admitted to the scheme. They are being allowed to act as judge and jury over their own wrongdoing.

This represents a complete mockery of due process.

Criminal cases - total lack of accountability

Since the first BBRS webinar, when victims were told that the BBRS would not consider criminal cases and they should always be referred to the Police, there has been a modest but unconvincing change of stance to suggest that cases,

which involve criminality, can still be submitted. So, in May, Gerger still recommended: “Where a customer alleges or suspects criminal conduct, we would urge them to notify the relevant authorities.”

However, it has long been evident to victims that the “relevant authorities” have been instructed and have absolutely no intention of investigating serious banking misconduct and fraud.

Instead of recognising the seriousness of cases which involve criminality, the stance of the BBRS has been to downplay this and be complicit with a process, which would never hold anyone to account. The Rule of Law is applied rigorously by the creditors of victims defrauded by their banks but every effort continues to be made to shield the perpetrators of such wrongdoing from the same Rule of Law.

The only thing which corrupt and dishonest bank staff and their professionals are afraid of is being sent to jail, so it is a strict condition of the BBRS is that there should be no accountability.

This is straight-forwardly corrupt.

Award limits – set deliberately low

The BBRS claims that award limits “were agreed by the bank participants and the SME representatives on the ISG, recognising the award limits applicable to the FOS for smaller SMEs”. In fact, the award limit for historical cases of £350,000 has been set to be in line with, and no better than, that of the FOS in order to restrict the banks’ liabilities. In many if not most cases, this ceiling will prove totally inadequate but the bar has been set deliberately low, so that any awards above that level will be regarded as exceptional.

Gerger: “We are able to recommend a higher award. The banks have contractually agreed to consider our recommendations for higher awards....If a bank disagrees with our recommendations, it must provide its reasons.” So, the perpetrators of wrongdoing are allowed to consider, but are certainly not required to agree with, awards above the £350,000 ceiling.

This is purposefully unjust.

Proper compensation – always denied

Gerger: “We can make an award for distress and inconvenience as well as for direct financial loss, consequential loss, interest and costs”. Everyone knows that amounts paid for distress & inconvenience (D&I) are paltry, hence the banks have agreed to pay them. Redress for direct & consequential loss (D&C) and the payment of statutory compound interest are an essential requirement but where is there any penalty for the banks having acted frequently in the criminal manner they have? Where is the deterrent to prevent the banks acting similarly in the future?

There is no deterrent. Bank officers and their professional agents are “a protected species”, able to act entirely as they wish and not to be restricted by the Rule of Law.

Summary – a totally flawed scheme

Given the appalling track record of Lloyds Banking Group in relation to the Griggs and Cranston reviews of the major HBoS Reading fraud and following the postponement of publication of the Dobbs review for the third time, there remains a complete lack of trust in the BBRS.

The BBRS looks uncannily like the Post Office mediation process, which was launched in 2013 but collapsed two years later, with the Post Office accused of sabotaging its own scheme.

In 2018, Chancellor Hammond suggested that it was vital that the newly-constituted BBRS considers as many complaints as possible. That objective appears more unachievable today than ever.

31. EPILOGUE - Honesty the best policy

Clearly, those influencing banking and financial services in this country which includes No 10 and No 11 Downing Street and all regulators have got it wrong, as evidenced by the number and quantum of fines paid by the shareholders of banks.

People with flawed characters have been appointed to run banking and they have not been qualified bankers. For banking to recover, every banker should have to pass Chartered Banker Institute, Moody's or other banking institute examinations.

Passing a driving test is obligatory for driving a motor vehicle, so why are bankers allowed to be unqualified? They are, for all intent and purposes, "trustees of the nation's wealth and well-being" and without exception, need to be qualified.

Those on the fringe of banking such as UKFI, APPG and BBRS, do not have practical banking experience or the appropriate qualifications to lead banking reformation. Lobbyist groups have destroyed banking and it is now up to the honest, professionally-qualified Chartered Bankers with long careers of hands-on lending experience to step up to the mark and effect change, so that customers can trust banking once again. Agents have destroyed my profession.

A plethora of new schemes and currencies is leading the country over a cliff edge once again. Cyber-currencies are opaque and untrusted, ripe for the fraudster to gain advantage from unprotected banking customers and depositors.

Every Chairman and board member of banks, which have paid fines, is guilty of fraudulent behaviour and maladministration. Fines equate to crimes.

Customer suicides caused by bankers are a blight on our country and those in authority. HM Treasury does nothing and the scandals continue unchecked. All this needs to change and I have outlined above how this can be done.

32. About the author

Nigel J D Harper Chartered Banker, MBA Banking, FCIB, ACIB FCBI, CeMap.
Non-Executive Director - Banking (Risk/Audit).

Highly professional and accomplished Head of Lending and Risk specialist.

Strengths - Leadership; Retail Financial Services; Corporate Governance; Boardroom Governance; Audit, Financial Crime Investigations; Commercial Lending and Credit Risk Management; Arrears management; Regulatory compliance FCA and PRA; EU Banking Directives; Corporate Strategy and Marketing Strategy; Banking Training and Banker Examiner for Moody's Retail Banking Academy International and the Chartered Institute of Bankers examinations. Former HMRC Retail Banking Specialist 2008 - 2016/ MD FPF Ltd.

Non-Executive Director appointments:

| | |
|---|------------------|
| Council Fellow, Chartered Banker Institute (CBI) | |
| Governance Committee | June 2009 – 2012 |
| | June 2015 - 2018 |
| Fellow of the Chartered Banker Institute | 2001- to date |
| Moody's Examiner RBA AWB Board Member | |
| Professor of Retail Banking for RBA 1,11,111 examinations | 2009 – 2021 |
| Member of SME Alliance, investigating victims' claims against bankers | |
| Fellow/Ambassador Transparency Task Force – SIG – Retail Banking – Commercial Lending | |
| Chairman – Ethical Banking Standards Council | |
| Responsible for the re-drafting of the Consumer Credit Act 1974 for HM Treasury, whilst at HMRC in 2016 | |
| Expert Witness for the Royal Courts of Justice – retail banking cases | |

