

# 'Is British retail banking still at the crossroads?'

Is British retail banking still at the crossroads? Last July the FSA's Chairman, Lord Turner, gave his '*Banking at the crossroads*' speech to *Bloomberg News* – just a few weeks after the Libor scandal broke – where he examined the collapse in trust in banking and how we could go about rebuilding trust in the banking system, banks and bankers.<sup>1</sup>

I have been asked to talk about how we can improve the customer experience in the complaints process in UK retail banking. **A key theme I would like to develop is the idea that getting the customer experience in the complaints handling process right should be seen as an integral part of the process that rebuilds trust in our banking system.**

There are many reasons why I would suggest we remain at a critical point in time for UK retail banking. **We await the second report from the Tyrie Commission on Banking Standards, which will look more fundamentally at the culture and ethics within our major banks; matters which go to the very heart of our banking system and the issue of trust.**<sup>2</sup>

At the EU level, we have the proposed Directive on access to payment accounts, and the Regulation on comparability of fees and switching of current accounts. We also

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<sup>1</sup> <http://www.fsa.gov.uk/library/communication/speeches/2012/0724-at.shtml>

<sup>2</sup> <http://www.parliament.uk/business/committees/committees-a-z/joint-select/professional-standards-in-the-banking-industry/publications/>

have the draft ADR Directive<sup>3</sup> and ODR Regulation<sup>4</sup>; all of which I shall return to later.

Complaints, and how they are managed, are a good barometer of the health of any organisation. In the first six months of last year – the ‘2012 H1’ period - **there was a 67% increase in the number of FSA reported complaints against banks and building societies.**<sup>5</sup> That’s almost 2.8 million complaints as opposed to just under 2 million financial service complaints reported in the same period the year before.

Overall, complaints caused by ‘*advising, selling and arranging*’ increased by 116% to 2.3m in the 2012 H1 period. Of those complaints, 96% were about general insurance and pure protection; **with almost £3bn in redress paid out for general insurance and pure protection products in 2012 H1.** In the same period the uphold rate of complaints by banks dropped from 69% to 63%.

When you look at the complaints data from the Financial Ombudsman Service (FOS) **it is evident that a remarkable number of complaint decisions by banks are overturned, and found by the FOS to have been wrongly decided by firms.** Staying with PPI, if we look at the FOS data in relation to general complaint overturn rates as against PPI rates an interesting picture emerges; **I will look at the position for the five major retail banks in the UK.**<sup>6</sup>

- **Santander** has a general FOS overturn rate of 42%, but this rises to 55% for PPI cases;
- **HSBC** has a general rate overturn rate of 38% - the lowest of the major UK banks – but this rises to 51% for PPI claims;
- **RBS** has a general overturn rate of 44%, which is 47% for PPI claims, the

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<sup>3</sup> [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2011/0373\(COD\)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2011/0373(COD))

<sup>4</sup> [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2011/0374\(COD\)&l=EN](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2011/0374(COD)&l=EN)

<sup>5</sup> [http://www.fsa.gov.uk/library/other\\_publications/commentary/aggregate.com](http://www.fsa.gov.uk/library/other_publications/commentary/aggregate.com)

<sup>6</sup> <http://www.ombudsman-complaints-data.org.uk/>

lowest differential of any major bank;

- **Barclays** general overturn rate by the FOS is 57% but a whopping **77% for PPI claims**, while the most striking of all is ...
- **Lloyds**, which has a general FOS overturn rate of 55% but **this increases to a remarkable 86% for PPI cases**. And of course, **last month the Lloyds Banking Group was fined £4.3m by the FSA for delays in compensating consumers for missold payment protection insurance**.<sup>7</sup>

What does this tell us? First, as a general proposition the major UK banks still have a long way to go to improve their complaints handling, and secondly, the handling of PPI complaints is particularly poor. **So poor that one might have thought a root cause analysis would be essential to addressing the systemic problems in the handling of these types of complaints**.<sup>8</sup>

This year the FOS will employ an additional 1,000 staff to deal with 245,000 fresh PPI claims.<sup>9</sup> **Of course, one of the catalysts for PPI claims has been the growth of claims management companies (CMCs) in the UK.**

**The Consumer Panel has serious concerns with the bad practices of some claims management companies, such as cold calling, up-front fees with no contracts, unauthorised deductions from bank accounts, and breaches of data protection and consumer protection laws**.<sup>10</sup> The Panel would like to see much stronger regulation of these companies, and welcomes the proposed reforms in this area including the extension of the Legal Ombudsman's jurisdiction to deal with CMC complaints from April this year, with the power to award compensation to consumers.

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<sup>7</sup> <http://www.ft.com/cms/s/0/506ce648-7a88-11e2-9c88-00144feabdc0.html>

<sup>8</sup> <http://www.fsa.gov.uk/library/communication/pr/2012/021.shtml>

<sup>9</sup> <http://www.bbc.co.uk/news/business-21080468>

<sup>10</sup> <http://www.citizensadvice.org.uk/theclaimspests>

Unfortunately, these positive reforms only apply to England and Wales, and sadly CMCs remain largely unregulated in Scotland.<sup>11</sup>

Ideally, **what we would like to see is all of those consumers who were missold PPI receive swift and fair redress, ideally without a third party taking 30% of their redress for filling in a form, because at the end of the day compensation represents the premiums which missold customers have already paid.** However, we recognise the need for such complaints not to drag on indefinitely and appreciate that this is a massive exercise for banks to manage.

Understandably the banks want closure on PPI, and in January this year the BBA had suggested a major take-up campaign subject to a time limit of next April.<sup>12</sup> **We are certainly supportive of the idea of an industry sponsored take-up campaign that is aimed at ensuring those customers who were entitled to redress, obtained it as quickly and simply as possible.**

**However, a note of caution:** given the very high FOS overturn rates in PPI complaints to banks, **how realistic and fair is it to suggest a big media campaign of itself would be sufficient to achieve the stated aims of the BBA, particularly within such a short timescale?** That said, we look forward to sight of the BBA's detailed proposal, and hope that it will contain substantive ideas which address how swift and fair redress can be made directly to eligible customers, overcoming the current chinks in the banks' redress systems.

In relation to potential new miselling and future complaints, **last month the FSA published the findings of its mystery shopping review of the quality of investment advice given by banks and building societies.**<sup>13</sup> The review was troubling as it revealed that one in four customers were given poor advice, with as

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<sup>11</sup> The regulation of CMCs in Scotland is a devolved matter within the responsibility of the Scottish Government.

<sup>12</sup> <http://www.bbc.co.uk/news/business-21080468>

<sup>13</sup> <http://www.fsa.gov.uk/library/communication/pr/2013/014.shtml>

many as one in ten being given ‘unsuitable advice’. Clearly, bank misselling is continuing despite previous thematic reviews in the investment advice space, which have found similar problems. **The Consumer Panel believes that stronger action is necessary to force firms to treat their customers fairly.**<sup>14</sup> **Prevention is better than cure when it comes to complaints. Ultimately, consumers don’t want to complain in the first place, and it’s worth remembering that most people don’t complain, but they do share their bad experience with around nine people on average, so good complaints handling is essential to avoid reputational damage.**

**Moving forward, we believe that the new Financial Conduct Authority (FCA) should name offending institutions, and deploy tougher sanctions for breaches of the regulations.** The use of mystery shopping as a supervisory tool is an example of the more intrusive approach that will be used by the FCA, which the Panel supports as a valuable and important regulatory tool.<sup>15</sup>

Over the last year, the Panel has undertaken work on a number of banking issues which we know from our consumer networks are still the source of customer dissatisfaction and complaints. I want to focus on two topical ones. **The first is the way banks deal with continuous payment authorities (CPAs), and in particular requests by customers to cancel them.** I want to take this issue as a ‘case study’ in relation to complaints management.

Last April, it emerged from a *BBC Money Box* investigation that many of our High Street banks were telling customers that they could only cancel CPAs with the consent of the payee.<sup>16</sup> In other words, the customer was *unable* to unilaterally cancel the CPA. **This was wrong in relation to the 2009 Payment Services Regulations**<sup>17</sup>

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<sup>14</sup> <http://www.fs-cp.org.uk/newsroom/2013/227.shtml>

<sup>15</sup> This commitment was made in ‘*Journey to the FCA*’, published in October 2012:

<http://www.fsa.gov.uk/pubs/other/journey-to-the-fca-standard.pdf>

<sup>16</sup> <http://www.bbc.co.uk/news/business-17870704>

<sup>17</sup> <http://www.legislation.gov.uk/uksi/2009/209/contents/made>

**and the FSA's Approach Document to the Payment Services Regulations.**<sup>18</sup> And yet it has taken a considerable amount of time for some banks to amend their practices and contractual terms, and as I have noted, we understand from consumer bodies that some banks are still getting this wrong, suggesting a failure to implement policy at the operational branch and customer service level.

I'm not privy to all of the structured lines of communication between banks and consumer bodies, but **surely banks could minimise complaints if they improved their lines of external intelligence and communication and operated a co-ordinated 'emerging risks register'?** And clearly the best person to co-ordinate such a strategic approach would be the BBA. For example, problems such as the mishandling of CPA cancellation requests might have been identified much earlier and acted upon considerably sooner, with fewer complaints, with such an approach?

But complaints will invariably arise, and when they do the customer must be made aware of their rights in relation to the complaints process. Yet, **perhaps the most peculiar of scenarios at present is where a customer's account is forcibly closed by his or her bank because account fraud is suspected,** however, the customer is often not told what the problem is, or what they can do about it. **Instead, they just discover they don't have a current account and can't open another one. We think this is wrong**<sup>19</sup> and have been working with the BBA, Stephen Timms MP and other key stakeholders to find a reasonable way forward.

**If I can return to the issue of EU law reform and its potential policy impact in relation to complaints generally. There are many initiatives currently at EU level which will affect the ADR systems. We are concerned that these should end up with consistent regulation that retains the existing protections that currently benefit UK consumers. Knowing that they have access to effective alternative**

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<sup>18</sup> <http://www.fsa.gov.uk/doing/regulated/banking/psd/publications>

<sup>19</sup> <http://www.bbc.co.uk/news/business-18540832>

**dispute resolution is a key element of consumer confidence in the financial services industry.** The Alternative Dispute Resolution (ADR) Directive and Online Dispute Resolution (ODR) Regulation are being voted on today in the European Parliament, and thereafter will require to be voted on in Council.

However, we remain concerned about the Directive's 90 day time limit for the ADR body – the FOS in the case of the UK – to determine a case. Additional time is permitted for '*complex disputes*', but that term is not defined in the Directive. **Given that only 41% of complaints before the FOS were resolved within 90 days clearly this is an issue that needs to be resolved.** After all, consumers also have valid reasons such as illness or bereavement for delays to the process. There are also policy concerns with the ODR Regulation and how authorised firms will link to the ODR, yet explain to customers it may be quicker applying to the FOS directly.

**We are expecting to see draft proposals from the Commission on bank accounts; a Directive on access to payment accounts with basic features and a Regulation on the comparability of fees related to payment accounts and the switching thereof.**

I want to focus on the latter proposal because switching is of course an issue which goes to the heart of complaints – less so with banks, but in the telephone and utility industries we know it is a popular way for consumers to '*vote with their feet*'.

The rationale behind the Regulation is that the **Payment Services Directive**<sup>20</sup> does not contain any provisions concerning the comparability of fees and the manner of presentation of such information. The implementation of the *Common Principles*<sup>21</sup> *for Bank Account Switching* **was meant to be completed by the end of 2009, but remains incomplete at present. Accordingly, the Commission wants to see a payment account switching mechanism that is easy, fast and secure for consumers.**

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<sup>20</sup> 2007/64/EC <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007L0064:EN:NOT>

<sup>21</sup> Adopted by the European Banking Industry Committee (EBIC).

Of course, UK banks have now spent a considerable amount of money, time and energy in developing a ‘*7 day account switching service*’, due to be launched later this year. We understand the new service is going to be presented as a ‘**switch in-a-day service**’, which we think makes more sense, even although it still takes 7 days to implement. Consumers can pick a day upon which all of their direct debits and standing orders will be migrated to their new account. **This is a tremendous advancement and will mean that customers will be able to do more than simply complain if they are unhappy with their service.**

**The switch in-a-day service will present a challenge to all banks to improve their customer service if they want to retain their existing customer base.** However, there is a fly in the ointment.

**While the account switch may take place on one day, the customer’s card and PIN are not required to arrive within the 7 day period.** This may effectively mean that some customers will not be able to access funds from their account or operate the account for the numerous daily transactions that we all engage in. **The Panel believes this is an important issue that should not be left to individual participants to vary timeframes; switching a current account on one day should mean just that - everything including a card and PIN being transferred within a guaranteed and understood period.**

Moving forward I would suggest that a key way to minimise financial services complaints and restore trust in the industry is **to ensure that consumers have the right products and services at the right price.** There should be no inducements related to product choice and the volume of sales. Consumers should be able to opt out of product features which they believe they do not need, or do not add value, or ultimately might prevent them from using the product – for example, why shouldn’t a consumer be able to opt out of using an overdraft and bank charges? **For a long time the Consumer Panel has been an advocate of more straightforward-outcome**



**products which do what they say on the tin.**

**Many of the financial scandals and problems – here and abroad - can be traced back to a lack of embedded professional ethics; and I believe that ethical failure is a *causa causans* of so many of our financial problems.** In the UK, we have inherent cultural problems where the behavior of authorised firms, including the incentivisation of staff through commission and pay, is to treat consumers not as customers or people, but rather as simply someone to sell to, regardless of whether the product is necessary, relevant or appropriate for them. If we are to significantly reduce the high level of complaints we need to change the culture within firms.

**The FCA with its new consumer protection and competition duties will be an important driver for progressive change, but regulation has its limitations; at the end of the day organisational leadership and a commitment to cultural change and the adoption of a new set of consumer values will be key to ensuring that we pick the right direction of travel.**

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