

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

COMPENSATION (LONDON CAPITAL & FINANCE PLC AND FRAUD COMPENSATION FUND) BILL

First Sitting

Tuesday 15 June 2021

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 19 June 2021

© Parliamentary Copyright House of Commons 2021

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:*Chairs:* † Ms NUSRAT GHANI, PETER DOWD

† Bell, Aaron (<i>Newcastle-under-Lyme</i>) (Con)	† Opperman, Guy (<i>Parliamentary Under-Secretary of State for Work and Pensions</i>)
† Benton, Scott (<i>Blackpool South</i>) (Con)	† Owen, Sarah (<i>Luton North</i>) (Lab)
† Cates, Miriam (<i>Penistone and Stocksbridge</i>) (Con)	† Rodda, Matt (<i>Reading East</i>) (Lab)
† Davies, Gareth (<i>Grantham and Stamford</i>) (Con)	† Thomas, Gareth (<i>Harrow West</i>) (Lab/Co-op)
† Fuller, Richard (<i>North East Bedfordshire</i>) (Con)	† Twist, Liz (<i>Blaydon</i>) (Lab)
† Glen, John (<i>Economic Secretary to the Treasury</i>)	† Williams, Craig (<i>Montgomeryshire</i>) (Con)
† Grant, Peter (<i>Glenrothes</i>) (SNP)	
† Hunt, Jane (<i>Loughborough</i>) (Con)	
† McFadden, Mr Pat (<i>Wolverhampton South East</i>) (Lab)	Seb Newman, <i>Committee Clerk</i>
† Mak, Alan (<i>Lord Commissioner of Her Majesty's Treasury</i>)	† attended the Committee

Witnesses

Simon Wilson, Interim Head of Resolution, Financial Services Compensation Scheme

Casey McGrath, Head of Legal, Financial Services Compensation Scheme

James Darbyshire, Chief Counsel, Financial Services Compensation Scheme

Sheree Howard, Executive Director of Risk and Compliance Oversight, Financial Conduct Authority

Robin Jones, Director of Risk and Compliance Oversight, Financial Conduct Authority

David Taylor, General Counsel, Pension Protection Fund

Rt. Hon. Dame Elizabeth Gloster DBE, PC (produced an independent report into the Financial Conduct Authority's regulation of London Capital & Finance plc)

Dorothy Cory-Wright, Partner at Dechert LLP (and member of Elizabeth Gloster's support team on the independent report)

John Bedford, Partner at Dechert LLP (and member of Elizabeth Gloster's support team on the independent report)

Andy Agathangelou, Founder, Transparency Task Force

Mark Bishop, Strategy Advisor, Transparency Task Force

Philip Brown, Director of Policy and External Affairs, B&CE

Public Bill Committee

Tuesday 15 June 2021

(Morning)

[Ms NUSRAT GHANI *in the Chair*]

Compensation (London Capital & Finance plc and Fraud Compensation Fund) Bill

9.25 am

The Chair: We are now sitting in public and the proceedings are being broadcast. Before we begin, I have a few preliminary announcements to make. Members will understand the need to respect social distancing guidance and, in line with the Commission's decision, face coverings should be worn in Committee unless Members are speaking or are medically exempt. *Hansard* colleagues will be grateful if Members could email their speaking notes to hansardnotes@parliament.uk. Please switch electronic devices to silent. Tea and coffee are not allowed during sittings. Following a request from a Member, gentlemen will be permitted to remove their jackets.

Today, we will first consider the programme motion on the amendment paper. We will then consider a motion to enable the reporting of written evidence for publication and a motion to allow us to deliberate in private about our questions before the oral evidence session. In view of the timetable available, I hope we can take these matters formally without debate. I now call the Minister to move the programme motion in his name and that was discussed yesterday by the Programming Sub-Committee.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 15 June) meet—

- (a) at 2.00 pm on Tuesday 15 June;
- (b) at 11.30 am on Thursday 17 June.

(2) the Committee shall hear oral evidence in accordance with the following Table:

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 15 June	Until no later than 10.15 am	Financial Services Compensation Scheme; Financial Conduct Authority
Tuesday 15 June	Until no later than 10.45 am	Pension Protection Fund
Tuesday 15 June	Until no later than 11.25 am	The Rt. Hon. Dame Elizabeth Gloster DBE, PC; Dechert LLP; Transparency Taskforce; B&CE

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 1.00 pm on Thursday 17 June. —(*John Glen.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*John Glen.*)

Resolved,

That at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*John Glen.*)

9.27 am

The Committee deliberated in private.

Examination of Witnesses

Simon Wilson, Casey McGrath, James Darbyshire, Sheree Howard and Robin Jones gave evidence.

9.32 am

The Chair: Before we hear from the witnesses, do any Members wish to make declarations of interest in connection with the Bill? I take that as a no.

I remind all Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timing in the programme motion. The Committee has agreed that we have only until 10.15 am for this session. Will the witnesses please introduce themselves for the record?

Sheree Howard: Good morning. My name is Sheree Howard and I am the executive director of risk and compliance oversight at the Financial Conduct Authority.

Robin Jones: Good morning. I am Robin Jones and I am a director within the risk and compliance oversight function of the FCA.

Simon Wilson: Good morning. I am Simon Wilson, the interim head of resolution at the Financial Services Compensation Scheme.

Casey McGrath: Good morning. I am Casey McGrath, head of legal at the FSCS.

James Darbyshire: Good morning. I am James Darbyshire, chief counsel and a member of the executive team at the FSCS.

Q1 Mr Pat McFadden (Wolverhampton South East) (Lab): I thank all the witnesses for appearing before us this morning. I would like to begin with a question for the witnesses from the Financial Services Compensation Scheme. Clause 2 of the Bill authorises a Government loan in the case of pension fraud and mis-selling. Simon, what is your estimate of the level of fraud and mis-selling in pensions and investments? Do you think that phenomenon is growing or has it always been with us?

Simon Wilson: Thank you for the question. If it is okay, I will pass it over to my colleague, James Darbyshire.

James Darbyshire: It is difficult to put a figure on the extent of pension mis-selling going on at the moment. We are certainly seeing an increase, and certainly an increase through the covid crisis. It is important to make it clear that there is a clear distinction between the two compensation schemes. Here at the FSCS it is triggered in relation to authorised firms that go bust and regulated activities, whereas the fraud compensation scheme is triggered by dishonesty in occupational pension schemes. There will be differences, but the mis-selling we see is through authorised financial advisers as well as unregulated firms.

Q2 Mr McFadden: Can you tell us a bit more about how it works? Give us a picture of the common mis-selling techniques and scams that are out there. How do these people operate?

James Darbyshire: The typical cases of mis-selling that we see at the FSCS involve scenarios in which somebody has been misadvised to transfer from a vanilla pension into a self-invested personal pension and, within that, invest in illiquid, esoteric and high-risk investments. Sometimes there is a fraud element as well, but they are certainly very high risk and often lead to that person losing all their pension savings. That is our most typical scenario.

Q3 Mr McFadden: Do you think that online advertising and selling exacerbates the problem because it might remove the kind of face-to-face discussion that you would have with an adviser? Or should we not look at it that way because the advisers might sometimes be part of the problem?

James Darbyshire: We are triggered because a regulated firm is involved, so there is an adviser who has mis-sold. But we have also seen an increase in pure scams, if we can call them that, that relate to investments that have been advertised through search engines. They are scams and not genuine investments. As part of the FSCS's strategic role for prevention and our strategies for the 2020s, we are identifying those kinds of scams and ensuring that we pass the information, data and insights that we see on to the relevant enforcement agencies so that they can take action. We work very closely with the FCA and last year, for example, we signed a memorandum of understanding with the Serious Fraud Office to ensure that we share information in the right way.

Q4 Mr McFadden: Thank you. I now have a couple of questions for the FCA's representatives. The findings in the Gloster report are pretty damning in a number of ways. I will not go through them all but they include repeated phone calls about what was happening in London Capital & Finance not being acted on, interventions by the financial promotions team not being passed up the line, different bits of the organisation not speaking to one another and so on. After this report, I suppose the most important question is this: how confidently can you say that this could not happen again?

Sheree Howard: Thank you for the question. Obviously you are correct that Dame Elizabeth Gloster undertook a very thorough and detailed investigation and produced a detailed report. It has identified a range of issues and mistakes that the FCA made, for which we are profoundly sorry. We know that it has had a devastating impact on many people.

We embarked on a range of initiatives and interventions as a result. We have done a significant amount of work on mini-bonds, in particular, and on other high-risk investments in the investment space and financial promotions arena. Actions are under way in all of them: some are closed, some are ongoing and some will take some time to be sustainable and to embed.

Financial firms do fail due to a variety of circumstances. We are investing heavily in an ongoing transformations programme, but can I give you an absolute assurance that something will not happen again? Sitting here today, I cannot give that absolute assurance, no.

Q5 Mr McFadden: You are right that financial firms fail, but the issue is not just their failure. The reason for the Bill is that the Government judge that such was the degree of regulatory failure that a compensation scheme

is in order. The question is not whether financial firms can fail—of course they can—but whether, following Dame Elizabeth's report, there has been such a degree of change in the FCA's operations that that degree of regulatory failure could not happen again.

Sheree Howard: A significant range of action has already been undertaken and is still under way to ensure that we make the embedded change that makes the FCA fit for the digitised future. A huge amount has been done. If you are asking whether we have changed, for example, our approach to financial promotions, we now escalate much earlier—we have a much clearer escalation process with a clear route through it. We have changed policies—for example, our contact centre policy—around areas highlighted in Dame Elizabeth's report.

Q6 Mr McFadden: In 2014, the FCA took on responsibility for supervising tens of thousands more firms as a result of the transfer of responsibilities from the Office of Fair Trading. Should we understand that that created significant difficulties for the FCA in absorbing tens of thousands of firms to supervise, or do you think other organisational things were going on that were unrelated to the size of its responsibilities?

Sheree Howard: Dame Elizabeth Gloster's report outlined the circumstances and nature of the changes that occurred at the time that consumer credit was transferred from the OFT to the FCA in 2014. The report is clear about the state of supervision within the FCA at that point and the changes that were implemented by the then executive members of supervision and others in the light of issues that they identified when they came into the organisation. It was a very substantial change of responsibilities, and it came from a regime where there was not a supervisory regime.

Q7 Mr McFadden: Are you telling us that it was a difficult thing to swallow but you now have the systems in place to deal with it?

Sheree Howard: I was not in the FCA at the time, but it was a very large assumption of remit. We have changed systems. We have implemented various programmes highlighted in Dame Elizabeth's report on delivering effective supervision and effective authorisation programmes.

As I have already outlined, the financial services market is not sitting still; the FCA cannot sit still—hence the changes that are under way and will be a fact of life going forward. We are undertaking a significant programme to ensure that we invest in digital and data and have much greater access to the information, given the quantum of firms that we oversee.

Q8 Peter Grant (Glenrothes) (SNP): May I start with the witnesses from the Financial Services Compensation Scheme? I am happy to let you decide among yourselves who is best placed to answer. One of the major problems with LCF was that mini-bonds were unregulated, and the same applies to a lot of other unregulated businesses involved in the same activity. If a decision was taken to make the sale of mini-bonds a regulated activity, would it cause administrative difficulties for the FSCS to start to include them in its compensation scheme?

James Darbyshire: I don't think it would cause administrative difficulties; it would just mean an additional area of coverage for the FSCS. The cost to levy payers—to

the financial services industry—would potentially go up, depending on whether there were any failures involving mini-bonds.

Q9 Peter Grant: Are you able to give an indication of how many claims or inquiries the scheme receives from people who turn out not to be entitled to compensation because their investments were unregulated?

Simon Wilson: Unfortunately, I cannot give an accurate figure, but I would be happy to look it up and come back to the Committee.

Q10 Peter Grant: I appreciate that you did not have notice of the question, but would it be fair to say that a number of investors come to the Financial Services Compensation Scheme and discover that their investments are not covered?

Simon Wilson: We certainly get calls and contact from our customers regarding investments that they made that we are unable to protect—that is correct.

Q11 Peter Grant: I shall direct my questions on the Financial Conduct Authority to Ms Howard, but if she wants to pass them on to Mr Jones please feel free to do so. The Financial Conduct Authority uses the term “unsophisticated investors” to describe investors for whom investment is not a way of life but tends to be an occasional activity, investing a pension or redundancy lump sum. Do you believe that these investors understand that a company that is regulated by the FCA—that is allowed to display the FCA logo on its website—might still be involved in the sale of unregulated investments? Do they fully understand that distinction?

Sheree Howard: I will look to my colleague Robin in a moment, but Dame Elizabeth Gloster’s report highlighted the halo effect that occurred in LCF. It was unique as it was an authorised firm issuing mini-bonds, which are not regulated although the firm was authorised for other activity but was not undertaking regulated activity.

On whether unsophisticated customers understand that, we are seeking ways of working with our partners to enhance that understanding. There is certain information on that in the financial services register, but people who invest little may not understand that, so it is an area of focus for us, including thinking about how we might most effectively act against that halo effect. That includes strengthening our gateway—our authorisations process—implementing a nursery, where we look at firms shortly after to ensure that they operate in line with our norms and standards. We are looking to do that as part of our transformation programme, as well as considering legislative routes that might help—for example, not having the logo and the FCA name.

The Chair: May I ask witnesses to keep their responses as short as possible so that we can get in more questions from Members? Mr Grant, will you make this your final question, please?

Q12 Peter Grant: Possibly—depending on the answer.

Ms Howard, another major problem has been not the unregulated activities carried out by regulated organisations, but unregulated companies that hide behind the fact that some company associated with it is regulated—for example, if a regulated company gives section 21 authorisation for its marketing materials. I will ask the

same question again: do the people being encouraged to make these investments understand that the fact that marketing material is issued by a company registered with the FCA does not mean that its activity is regulated?

Sheree Howard: In evidence as part of LCF there was substantial discussion of the financial promotions regime—of the section 21 approval regime in particular. The Government are currently considering changes to that regime to help to improve understanding by making it a specific gateway so that we can test firms that wish to give such approvals to ensure that they do so appropriately. That should help to ensure that consumers understand better.

Q13 Matt Rodda (Reading East) (Lab): I thank the witnesses for their time in giving evidence this morning. As the shadow pensions Minister, I have a series of questions on pensions, but I preface them by pointing out to those watching proceedings today who are not pensions experts that there have been some absolutely dreadful pensions scams.

The Chair: May we ensure that questions are in scope of what is before us? You have only three to four minutes.

Matt Rodda: I will move through them rapidly.

To what extent do the witnesses believe that pensions scams are a tangible risk to the future of people’s retirement in the UK?

James Darbyshire: The FSCS is seeing an increase in pensions scams in our work. The area certainly needs further attention, given the distress and the potential for losing life savings. Where we see evidence of scams, particularly use of the FSCS logo, we are working closely to reassure pensioners in relation to scam investments and are sharing data with regulatory colleagues to ensure that they can take action as appropriate.

Q14 Matt Rodda: What further action would you like to see taken following the terrible problems created by the introduction of pensions freedoms without further regulation associated with it?

James Darbyshire: Focusing specifically on scams, we think that online scams and the ability to scam investors and pensioners should be considered for inclusion as part of the online safety Bill. That is certainly our position, and I believe it is also the FCA’s.

Q15 Matt Rodda: What further resources do you need to help to tackle scams? In particular, is there a need for a major Government information campaign to alert savers?

Sheree Howard: Picking up on James’s final comment on the online harms Bill, we definitely would support that. Good changes have been made recently, but further changes would be helpful in mitigating the risk of scams and fraud in pensions and investments. We have our ScamSmart campaign and have done targeted campaigns around it. We work with partners, as James said. Could more be done? Yes, more could be done, such as the online harms Bill, education and so on. We are working with partners, but more could be done.

The Chair: Thank you. I call Richard Fuller, who has five minutes. I remind hon. Members please to keep their questions within the scope of the Bill.

Q16 Richard Fuller (North East Bedfordshire) (Con): Thank you, Ms Ghani. I will stay within the scope of the Bill. I have two questions about the impact of the Bill on established principles of caveat emptor and the expectation that it might have in terms of greater socialisation of losses from decisions that people make. First, Mr Darbyshire from the FSCS, in what way might the provisions of the Bill have an impact on that message that individual consumers who purchase financial products should understand that they are primarily the ones who bear responsibility? Will the Government's provisions in the Bill affect that in any way?

James Darbyshire: That really is a question of judgment for the Government and Parliament in relation to the impact on the Bill. The FSCS's role is simply to administer the Government's redress scheme as efficiently and effectively as possible. We are committed to paying compensation to eligible investors within six months of the scheme going live.

Q17 Richard Fuller: I have just one further question on that. I understand that the change is yours to implement, but from your experience over the years, have you seen any change in expectations?

James Darbyshire: The balance between consumer protection and consumer responsibility is a delicate one. Ultimately, that is a policy question that has to come from the Government and through the FCA. In our role, we are focused on ensuring that consumers can make decisions in a way that they are as informed as possible about whether there is FSCS protection for particular products. That is critical to the way they make decisions. For example, at the moment we have a comms campaign about pensions and investments, to make sure that consumers are checking whether they are covered when they make those decisions.

Q18 Richard Fuller: Thank you. The second part I would like to direct to Ms Howard. From the FCA's point of view, in terms of improving processes for the regulation of firms, does the Bill—another way of the Government stepping in to compensate the losses—have any impact on the imperative at the FCA to regulate firms as effectively as possible, knowing that, ultimately, the Government will step in if there is an error in your regulatory policies?

Sheree Howard: I will pass that on to Robin, if I may.

Robin Jones: Of course. The first thing to say is no, the Government stepping in in this particular scenario most certainly does not affect the FCA's commitment to effective regulation, and to making the changes that Sheree set out. As the Government have already noted and the Economic Secretary to the Treasury has highlighted, this is only the third time that such a scheme has been set up in the recent past. It is exceptional and unique. We are not expecting it to be happening on a regular basis.

At the FCA we have accepted all the recommendations of Dame Elizabeth's report, and Raj Parker's report into Connaught. We are now taking a number of steps to respond to that. We have steps that we are taking this year. As we have highlighted, our new chief executive,

Nikhil Rathi, has a significant transformation programme in place and has brought in a range of external executive directors to lead that change and to bring an operational excellence focus to the changes that are needed in the organisation. I do not see this scheme and the Government stepping in, in unique and exceptional circumstances, as creating any risk of diverting our focus.

The Chair: Thank you. I call Gareth Thomas—you have six minutes.

Q19 Gareth Thomas (Harrow West) (Lab/Co-op): Thank you, Ms Ghani. I would like to take you back to the FCA's handling of the consumers who phoned up the FCA about London Capital & Finance. Can you tell me whether there was ever a meeting between FCA officials and some of those customer investors—unsophisticated or sophisticated, depending on the language that the FCA might want to use? Was there ever an actual meeting that took place between FCA officials and those customers?

Sheree Howard: Could I ask for clarification? Are you asking about during the time that LCF was in operation, or subsequently?

Gareth Thomas: First, during the time that LCF was in operation.

Sheree Howard: I am not aware of any, but I would need to go and check that.

Q20 Gareth Thomas: Has there been any meeting with them subsequently, perhaps to help with the lessons learned process within the FCA?

Sheree Howard: I think there has been, but I would need to go and check the details on that and get back to the Committee separately, if that is okay.

Q21 Gareth Thomas: Moving forward, do you think that if a substantial number of consumers got in touch to raise concerns about the way a particular financial services business was operating, it would be sensible for the FCA to meet those consumers or just deal with them over the telephone or by letter?

Sheree Howard: As part of our transformation programme, we are considering our approach to consumer engagement and what that looks like, recognising some of what we have seen here and making sure that we are serving the UK public in the best way we can, both through information provision and by ensuring that their voices are heard.

Q22 Gareth Thomas: With due respect, you have not really answered my question, so let me ask you specifically: if a series of consumers phoned up separately to raise concerns about the way a major financial services business was operating, would you seek to meet them to try to guide your handling of the issues around that financial services business?

Sheree Howard: Our focus initially would be to gather that intelligence and use it as quickly and urgently as possible to act against whatever has been raised. That would be our primary focus—making sure that we gather as much evidence or intelligence from them as we can.

Q23 Gareth Thomas: So you would gather the intelligence and the data, but if they asked for a meeting with you, would you turn that request down or accept it?

Sheree Howard: I am sure we would consider it. From my perspective, of course we want to listen to them, and we would offer to meet them, if they wish to.

Q24 Gareth Thomas: But you would meet the representatives of the business if they asked for a meeting.

Sheree Howard: For the businesses that we regulate, authorise and supervise, yes, we would. As I said, we would take it into consideration and—potentially do what we do with whistleblowers, for example,

Q25 Gareth Thomas: But you would accept that there is a risk of a disconnect between the way in which you handle the business owners or business management and the consumers of the business. You might agree to meet the consumers, but you might not. But you would meet the business.

Sheree Howard: I think I ought to clarify. Obviously, meeting with lots of individual consumers would take a very significant amount of resource. We do meet groups of consumers on occasion to hear concerns. We meet lobby groups, consumer networks and things like that, to hear those consumer voices. We obviously also have a consumer panel, so we meet ranges of consumer representatives in a number of circumstances. If you are asking me whether we would meet every consumer who phones up or who asks to phone up, that would be slightly more difficult. We do on occasion—for example, under the complaints scheme—meet a consumer who has a complaint, if that is the best way for them to get their concerns across. It is very individual and depends on the circumstances.

Q26 Gareth Thomas: Okay. One of the other criticisms that Dame Elizabeth Gloster made was around the policy papers that were produced and the way they dealt with fraud. Can you tell me how those policy papers are being handled now? Are they still in use? Has the process of writing them been reformed in any way?

Sheree Howard: In any initiative we are very focused on its operationalisation. When a paper comes through, we are very focused on what would happen once that policy goes live—our ability to supervise through it and how it would be implemented in the organisation to make sure it is as effective as it can be.

Q27 Gareth Thomas: The reason I asked that is because one of the biggest issues before the FCA in terms of its handling of consumers is the question of the demutualisation of Liverpool Victoria. I have searched the FCA website, as have others, and cannot find any policy paper at all on how the FCA will handle the consumer issues involved in the demutualisation of a major business. Why is that lacuna in existence?

Sheree Howard: I am aware that the FCA has met you about this area. I am very conscious that there will be future discussion between the EST and our CEO Nikhil Rathi on that matter. We have clear guidance about how we handle part VIIs and the role of the independent expert in those, which LV would go through if it went through a demutualisation process.

Q28 Gareth Thomas: Would you be able to show me that guidance?

Sheree Howard: I will find what we have and send it to you.

The Chair: Ms Howard, you responded to Mr Thomas's first question by saying that you would write to us. May I point out to you that you must write your response to both questions today? Minister Opperman, do you have any questions?

The Parliamentary Under-Secretary of State for Work and Pensions (Guy Opperman): You are very kind, Chair, but I do not.

The Chair: Very good. Minister Glen?

The Economic Secretary to the Treasury (John Glen): No, I do not, thank you.

The Chair: That brings us to the end of this session. I thank all the witnesses for giving evidence.

Examination of Witness

David Taylor gave evidence.

10.7 am

The Chair: We will now move on to oral evidence from David Taylor, general counsel at the Pension Protection Fund. We have until 10.45 am for this session. Could the witness please introduce himself for the record?

David Taylor: I am David Taylor, executive director and general counsel at the Pension Protection Fund, which also runs the Fraud Compensation Fund.

The Chair: I call the shadow Minister, Mr Pat McFadden.

Q29 Mr McFadden: Good morning. Thank you very much for giving evidence today. Clause 2 of the Bill authorises a Government loan that will subsequently be paid for by a levy on the industry over a period of years. Can you tell us how that levy will work and how the burden of it will be divided between different types of pension schemes, for example the auto-enrolment schemes that have been established over the last decade or so?

David Taylor: Absolutely. We have the power to set the levy up to limits set out in legislation. Since we got clarity on the eligibility of scam schemes for compensation in the last year, we have raised the levy to the maximum we can at the moment. That is 75p per member for schemes in general, and 30p per member for master trusts. Any change to those maximum levels is a legislative matter that the Government plan to consult on in the autumn.

Q30 Mr McFadden: The reason for that is the growth of pension fraud and mis-selling. Obviously, you are the ultimate backstop at the Pension Protection Fund. What is your view of the trajectory of pension fraud and mis-selling? Is it growing in nature? If so, how could the Government and the regulators do more to combat it?

David Taylor: Our role in relation to this is, as you say, as the backstop to pay compensation in the particular circumstances where there is a pension scheme that has been defrauded, or where money has been lost from the scheme due to dishonesty. The sorts of cases that we are talking about here, and for which the loan will be required, are actually predominantly historical in nature.

As you will no doubt hear from other witnesses, there have been a number of measures since then that have tightened up in various respects and mean that cases like the ones we are talking about here are less likely to happen in the future.

Q31 Mr McFadden: My final question is about information to consumers. We have the Pension Protection Fund, we have the financial services compensation scheme, and now we have the Fraud Compensation Fund as well. If a pension scheme member finds themselves in need of redress, how will they navigate their way through this? How will people know whom to contact? What efforts will be made to let people know that this help is available to them?

David Taylor: The Fraud Compensation Fund has been in existence since the main Pension Protection Fund was set up in 2004-05, but it has actually had relatively few claims on it prior to this raft of pensions liberation cases. I believe you will be hearing later from the transparency taskforce, which very helpfully flagged to us that information on the Fraud Compensation Fund was not perhaps as successful as it could be. We have taken various steps to increase visibility. We are in the process of creating a separate website for the Fraud Compensation Fund, where it is very straightforward for members to find information about how the fund works. For the sorts of members we are talking about, their first port of call is also the scheme trustees or professional trustees who have been put in place by the Pensions Regulator and who will be able to keep them posted as to where their applications have got to.

The Chair: I turn now to the SNP spokesperson, Mr Peter Grant.

Q32 Peter Grant: Thank you, Ms Ghani. The Fraud Compensation Fund comes into operation only when fraud or misappropriation has been established, certainly in the view of the board. How much of a delay does that cause between the collapse of a company and the people who had put into that company getting their compensation?

David Taylor: From the point at which an application is made to us, through to our making a payment into the scheme, we would estimate that it takes somewhere between six and 18 months to process that application and establish whether the various necessary tests have been satisfied, particularly a loss to the scheme due to dishonesty, and whether all other avenues for redress have been exhausted, because we are the fund of last resort. Once the application comes to us, it is relatively quick. However, in relation to the schemes that we are talking about here, people have been waiting for some time as a result of the uncertainty about the eligibility of those schemes for FCF compensation.

The Chair: Can we ensure that the questions are in scope, Mr Grant?

Q33 Peter Grant: Thank you, Ms Ghani. Secondly, Mr Taylor, can you outline the basis of your calculation or estimate that the cost from historical cases will be around £350 million? Is there an appreciable risk that the cost could be significantly higher than that?

David Taylor: The way that these cases typically work is that when they become known, the Pensions Regulator appoints a professional trustee to manage the case and to seek to bring in any assets that they can, any claims

against the wrongdoers and so forth. The information that we have on the amount of claims is based on information that we have gleaned to date from the professional trustees and/or the Pensions Regulator. We have been liaising with them for some years in relation to these cases.

Inevitably, it is not until they make their formal application to us and provide us with all the documentation that we can really get into the numbers, so we have greater certainty about the numbers that have already applied, perhaps slightly less certainty about the longer-term pipeline.

I think it is fair to say that, based on everything that we have done to date, we are reasonably confident about the order of magnitude of the claims that we know about. There is no legal reason why we could not get more claims in future, so I cannot say, no, that number is not going to go up. For the reasons I mentioned earlier, about these claims not being so relevant anymore, we would perhaps be slightly surprised if it went up a great deal.

The Chair: I now call Mr Matt Rodda.

Q34 Matt Rodda: Thank you, Ms Ghani. Thank you, Mr Taylor, for your evidence. First, could you reflect on the lessons that need to be learned, following the imposition of pension freedoms? It seems to me that the sector is addressing a series of quite difficult problems that should have been better anticipated when the freedoms were introduced.

David Taylor: Our role relates to paying the compensation at the end of the process. The cases we are talking about here almost entirely predate pension freedoms. The reasons for the liberation cases have gone away to an extent, as a result of pension freedoms. There is not a great deal that would be appropriate for me in my role to talk about pension freedoms.

Q35 Matt Rodda: Perhaps I can address this in a different way. This is a broader question about the nature of the levy. Did you and your colleagues look at other models for the design of the levy? Could you explain the process you went through in coming up with the levy as currently designed?

David Taylor: We have almost no discretion in how the Fraud Compensation Fund levy is set. Members will probably be familiar with the Pension Protection Fund levy, the much larger levy on defined benefit schemes, where we have a lot of discretion and we do a lot of work on structuring that levy. As far as the Fraud Compensation Fund levy is concerned, it is simply a flat-rate levy. Our only choice is whether to charge the maximum amount or less. In the light of the size of the claims we are now dealing with, we will charge the maximum for the foreseeable future.

Q36 Matt Rodda: What work did you do to explore the effects of the levy on particular schemes? Certain schemes seem to bear a very high cost.

David Taylor: Again, that is slightly outside our remit but we are, of course, well aware of the debate around the fact that it is a per-member levy, and the representations made by master trusts, in particular, on the impact that has where they manage numerous small pots.

The Chair: I call Mr Richard Fuller.

Q37 Richard Fuller: Thank you, Ms Ghani. Mr Taylor, this Bill arises in large part because of an acceptance of some regulatory shortcomings as they applied to a particular firm and, in part, it results in an expectation, as you have just said, of a maximum levy on other firms in the industry that have operated fairly, ethically and well. Do you think that that is the right solution to the identified problem or is it just a necessary requirement as a result of the problem?

David Taylor: Like a number of other systems, the Fraud Compensation Fund was set up to be an industry-funded system. Our role in this is simply to administer that system and it has become apparent that, in order to deal with the cases that are eligible, more money will be needed. As I understand it, the plan is to maintain the system of industry funding and the Government will be consulting in the autumn on any changes to the levy rates.

Q38 Richard Fuller: Administering yes, but I think you also have discretion to decide at what level you charge the levy.

David Taylor: Yes, that is true.

Q39 Richard Fuller: The explanatory notes to the Bill say:

“The FCF is funded by a levy on eligible pension schemes and at the time of the judgment had assets of £26.2m. Even with future levy income, the expectation is that there will be unfunded liabilities in the region of £200m to £250m.”

Is it your expectation that the Government’s consultation later in the year will be about resolving that funding shortfall or that, with current resources, over an acceptable horizon, that funding shortfall can be reduced?

David Taylor: I will pick up on a couple of points there. To go back to the question of how big the shortfall is, as I said earlier, those numbers are based on our best current estimate of the claims that will come in. As for how that shortfall is then funded, the loan that we are talking about and that the legislation enables will effectively resolve the cash-flow issue while we make the payments. As I understand it, the plan is that it will be reimbursed through the fraud compensation levy. In terms of what the levy is, there is a balance to be struck between the level at which the levy is set and the period over which we are required to pay the money back to Government.

The Chair: I call Mr Gareth Thomas.

Gareth Thomas: I apologise, Ms Ghani. I mis-spoke earlier; it is probably a lack of practice. My questions actually relate to the third group rather than this one.

The Chair: No problem. I now come to Minister Opperman.

Q40 Guy Opperman: I will ask a few limited questions of Mr Taylor. When the Pension Protection Fund and the Fraud Compensation Fund were created in 2004, am I right to say that the levy was an industry-funded system that was not envisaged to include these types of cases?

David Taylor: That is right. The types of cases that we were dealing with in the early years of the Fraud Compensation Fund were different. They did not involve schemes that had been set up specifically for the purpose of pensions liberation. They were more to do with, for

example, employers who had failed to pay over into a scheme the moneys that they had deducted from their employers or conceptually straightforward fraud by which money was taken out of existing defined contribution or DB pension schemes.

Q41 Guy Opperman: Can we clarify the difference between what was called pension freedom and pension liberation? You have been asked two questions about pension freedoms. I think I am right—please correct me if I am wrong—in saying that the vast majority of schemes that are affected by the claims being made predate pension freedoms in 2015. Is that correct or wrong?

David Taylor: That is correct.

Q42 Guy Opperman: Secondly, the levy was created. Am I right to say that it has had a series of amendments between 2004 and 2021 and in the future consultation through which Governments of the day address particular issues and either raise or adjust the levy as it goes forward?

David Taylor: That is right. There have been a couple of changes over the years.

Q43 Guy Opperman: Your expectation, as I understand it, is that there will be a consultation on the levy in the autumn to assist in the payment of the disparity in the funding of the FCF?

David Taylor: That is right, yes.

Q44 Guy Opperman: Finally, am I right that the Pension Protection Fund produces an annual report?

David Taylor: Yes, we do. We are just about to publish our report for the year finishing 31 March 2021. It is quite comprehensive and is audited by the National Audit Office.

Q45 Guy Opperman: This relates to amendment 6, which will be moved later, but does the annual report include an assessment of the operation of the Fraud Compensation Fund?

David Taylor: It does, and I anticipate that there will be far more activity on the Fraud Compensation Fund in the year to come than there has been in previous years.

The Chair: If there are no further questions from Members, I shall thank the witness for his evidence. We now move on to the next panel.

We seem to be struggling to get all the witnesses on Zoom, so I will suspend the sitting until 10.45 am.

10.27 am

Sitting suspended.

Examination of Witnesses

Dame Elizabeth Gloster, Dorothy Cory-Wright, John Bedford, Andy Agathangelou, Mark Bishop and Philip Brown gave evidence.

10.45 am

The Chair: We will now hear oral evidence from the right hon. Dame Elizabeth Gloster, Dorothy Cory-Wright and John Bedford of Dechert LLP, Andy Agathangelou—forgive me if I have mispronounced your name—and Mark

Bishop of Transparency Task Force, and Philip Brown of B&CE. For this panel we have until 11.25 am. Could the witnesses please introduce themselves for the record? Let's begin with Andy Agathangelou.

Andy Agathangelou: Thank you. I am the founder of the Transparency Task Force, which is a certified social enterprise. I should also mention that I am the chair to the secretariat to two all-party parliamentary groups: the all-party parliamentary group on pension scams and the all-party parliamentary group on personal banking and fairer financial services.

Mark Bishop: I am Mark Bishop, a strategy adviser working with Transparency Task Force, particularly in the areas of organisational strategy, public affairs and helping the victims of financial services misconduct and regulatory failure.

Philip Brown: Good morning, I am Philip Brown, director of policy and external affairs and B&CE, providers of the People's Pension. We are one of the UK's largest pension schemes, serving the automatic enrolment market. We have 5 million members, nearly £15 billion of assets and serve nearly 100,000 employers.

Dame Elizabeth Gloster: Hello, I am Liz Gloster, I was appointed by the FCA at the direction of the Treasury to investigate the FCA's regulation of London Capital & Finance. Assisted by my team at Dechert and barristers, we produced our report last November. I currently sit as an arbitrator in international commercial arbitration.

Dorothy Cory-Wright: I am head of disputes and contentious regulatory in the law firm of Dechert. As you just heard, we supported Dame Elizabeth in her investigation, and I led the team from Dechert.

John Bedford: I am John Bedford, I am a partner at Dechert LLP in London, and I was part of the team supporting Dame Elizabeth with her report.

The Chair: I thank all the witnesses for giving evidence today. I urge them to keep their answers short so we can get through all the Members who wish to contribute. I call the shadow Minister, Pat McFadden.

Q46 Mr McFadden: Thank you, Ms Ghani, and I thank all the witnesses for giving us their time. Dame Elizabeth, I would like to begin with you. You produced a hefty, detailed report of hundreds of pages with a number of different recommendations. Having looked into the collapse of London Capital & Finance so deeply, what is the single biggest lesson that you would like us to take from your report?

Dame Elizabeth Gloster: It is probably set out in the executive summary of my report, in chapter 2. I think the biggest lesson that should be taken away is that there has to be a cultural change at the Financial Conduct Authority in order to ensure that the FCA is able to regulate in accordance with its obligations in a digitalised world.

Q47 Mr McFadden: You were, of course, asked to look into the collapse of one particular firm. At the heart of quite a lot of your findings is the tension of a regulated firm selling unregulated products. Although you were asked to look into the collapse of one firm, do you think that the kind of regulatory failure that you

identified could apply in other cases? After all, LCF is certainly not the only regulated firm that is selling unregulated products—many firms do that.

Dame Elizabeth Gloster: Let me make it clear, as I think I did in my letter to the Committee, that I only looked—and was only instructed to look—at the regulation of LCF. I did not look at the regulation of other firms that may or may not have been similar. Having said that, some of the criticisms my report made could potentially apply to other firms. First, for example, the restricted approach to the regulatory perimeter when dealing with authorised firms; secondly, the failure to consider LCF's business holistically in the application, variation and the regulation supervision processes; and thirdly, the absence of training that we pointed to of those employees at the FCA who had to review financial material. Those are all three failings that potentially could apply to other businesses.

Q48 Mr McFadden: Thank you. This is my final question to you, Dame Elizabeth. You made a recommendation about dealing with the lacuna in how ISA status were dealt with between the FCA and HMRC. Could you tell us a bit more about this? What is this lacuna? ISA status is important. It is a trusted and successful brand. People may think that you cannot lose money on an ISA—of course you can—but certainly putting your money in one is regarded as a safe and responsible thing to do.

Dame Elizabeth Gloster: The gap we identified—I would be grateful if John or Dorothy could direct me to the particular chapter in my report—was that neither the FCA, nor HMRC, at any time checked on or seemed to conduct any analysis of, either as part of a regulatory or a taxation process, whether or not the product being flogged to the investors was ISA compliant. John, do you have the chapter?

John Bedford: Yes, Dame Elizabeth. It is chapter 14, page 303 of your report.

Dame Elizabeth Gloster: Thank you. The fact that LCF bonds could be acquired in an ISA wrapper was absolutely critical to attracting investment because bondholders believed that the ISA status indicated that LCF's products were subject to an additional level of regulatory security and assurance. Once LCF got its approval, and marketed its bonds as ISA-eligible, the sales significantly increased. That was our concern—this gap with neither the FCA nor HMRC actually looking at the question—and was something that should be addressed.

Q49 Mr McFadden: Thank you. That is a very important finding. I have one further question to the Transparency Task Force about the uniqueness, or otherwise, of the LCF case. The Government's case is that the LCF collapse—rather not the collapse but this response to it—is unique because, as both Ministers said on Second Reading, “LCF is the only mini-bond firm that was authorised by the FCA and sold bonds in order to on-lend to other companies.”—[*Official Report*, 8 June 2021; Vol. 696, c. 905.]

My question is whether the case of LCF is unique and, if not, why not?

Mark Bishop: Shall I take this one? If you look at what the Minister said, then no doubt it is unique. I am not aware of any other situation where there is a regulated

product being sold by an authorised firm who is conducting literally no regulated business, and is also allowed into an ISA. Those are exceptional circumstances.

However, if you look at the many other financial services scandals that have occurred where regulatory failure is either proven, as in the Connaught case, or is alleged with very good reason, they all have exclusive and specific circumstances. I think the question for this Committee is whether you want to use the opportunity of this Bill to create a right for consumers—with a high bar—to have their claims for compensation considered, where they are able to demonstrate significant regulatory failure and that that failure has led to loss.

The Chair: I call the SNP spokesperson, Mr Peter Grant.

Q50 Peter Grant: Thank you, Ms Ghani, and good morning to all of our witnesses.

Dame Elizabeth, may I come to you first? You will be aware that there are amendments that the Committee will consider later that ask for the Secretary of State to be required to report various things to Parliament. In particular, one amendment asks for a report within six months on progress towards the implementation of the recommendations in your report. Clearly, not all of the recommendations will be implemented within six months, but in your view what would be a reasonable time scale for Parliament to ask the Secretary of State to come back and give us an update as to what had been achieved by that point?

Dame Elizabeth Gloster: Thank you for the question; I don't think I am really qualified, in terms of parliamentary process, to answer it. What I can say is that it was a matter for the FCA to determine how it responds to my recommendation, and my report specifically said that any such response should involve an assurance exercise to confirm that any of the steps, whether recommended by me or otherwise, to cure the defects in the regulation process have indeed achieved the desired objective.

I believe that implementation of my recommendations should be closely monitored, but I don't really have a view as to whether that means the Secretary of State should be required to lay a report before Parliament, or, if they are, within what timescale. There may be other ways of monitoring progress in relation to the implementation of my recommendations, such as via the Treasury Committee or otherwise.

I think that is the best answer that I can give you.

Q51 Peter Grant: Thank you very much for that. Perhaps I can frame the question in a different way: would it be reasonable to expect to see significant progress within six months in the implementation of your recommendations?

Dame Elizabeth Gloster: I would hope so, but I am not saying that in an informed way. Nevertheless, since the FCA has had my recommendations, as indeed has the Treasury, for some months now, I would hope that they are cracking ahead with implementing the recommendations right now. I suspect that the answer to your question is probably "Yes, it would be reasonable".

Q52 Peter Grant: Thank you. I have a final question for you, Dame Elizabeth. We hear a lot about phrases such as "mini-bonds" and "mis-selling". Can those

concepts be defined clearly enough to form the basis for a wider legal compensation scheme, if Parliament and the Government were minded to do so?

Dame Elizabeth Gloster: Well, I am a lawyer, so I can define anything, I suspect—[*Laughter.*] At the time, mini-bonds were not defined and nobody really knew what was being referred to. But, yes, of course you can define a bond that has particular attributes and define it as a mini-bond. It is a slightly open-ended question, but I would have thought that the answer is yes, you can define a bond with particular attributes that might or might not attract protection.

I do not know whether either of my colleagues want to come in on that answer.

Peter Grant: I can see on the screens that they are shaking their heads, so we will take that as a "no". For the record, I do not know whether the camera showed this, but one of the lawyers on the Committee was jumping for joy and waving his arms about when you announced, Dame Elizabeth, that a lawyer can define anything when asked to do so. You have one friend on the Committee.

Dame Elizabeth Gloster: I am not expecting people to agree with that comment; it was only a frivolous comment.

Q53 Peter Grant: I turn now to Mr Agathangelou for the Transparency Task Force. I have a question for you that is similar to the one I just asked Dame Elizabeth. You are aware that there are two amendments asking for the Secretary of State to be required to bring reports back to Parliament, which essentially start to look at the wider issues of investment, mis-selling, regulation and compensation. Do you agree that there is a need for something like that to be brought back to Parliament and, if so, why?

Andy Agathangelou: I certainly do agree. The reason I agree is because there is a mountain of evidence suggesting that there are many similar cases to LCF—Connaught, Lendy, FundingSecure, Blackmore Bond, Exmount, Bentley Global, Store First, Park First, Premier FX, Woodford.

We have to ask ourselves one fundamental question: do we want the public to have good reason to have trust and confidence in our financial ecosystem? If the answer is yes, it follows that we must also want the public to have confidence and trust in the financial regulatory framework that oversees it. Unless we get to that point, we cannot have what we want, which is a system that we can all rely on.

I would argue very strongly indeed that we must look at, for example, Blackmore Bond. The evidence is crystal clear that there has been catastrophic regulatory failure. We need to do what is uncomfortable and open up the can of worms that is there, and the can of worms that is within Premier FX. We need to have the courage to recognise that things have gone wrong. We do not need to make it in any way personal—this is a systemic issue. We will only start addressing these problems if we move away from short-term, tactical, reactive responses to long-term, strategic, proactive responses. I and the many members of our organisation would be very pleased if Parliament were to decide to properly investigate the many other catastrophic regulatory failures that have taken place.

The Chair: I ask witnesses to make sure that you are on mute if you are not speaking, and to keep answers short. Mr Grant, is this your final question?

Q54 Peter Grant: Yes. I just want to ask Mr Bishop if he has anything to add.

Mark Bishop: Yes. I strongly endorse what my colleague Andy Agathangelou said and I would like to add a little more information.

As far as I am concerned, the debate is about what happens when the regulator fails in its statutory duty to protect consumers. There are a number of options. The consumers can bear the costs, and that is tough; the consumers can be compensated by the Treasury; or they can be compensated by the FCA.

At the moment, there is no effective route to be compensated by the FCA, because in the Financial Services Act 2012, Parliament—rightly or wrongly—gave the FCA broad exemption from civil liability. It is almost impossible to sue. There is a very narrow carve-out on breach of human rights and acting in bad faith. At some point, someone is going to try the human rights angle, but I do not think anyone has successfully done so yet, because the costs are high and the FCA effectively has unlimited resources.

Knowing that it gave that exemption, Parliament also created a complaints scheme. Unfortunately, it then allowed the FCA to specify the complaints scheme. As a result, the FCA has determined that it cannot give out material levels of redress and it cannot give out any redress where there is an allegation that the regulator has failed in its statutory duty—it has been negligent or it has just not done the job properly. In effect, there is no route for consumers to receive redress. There is a need to create one.

There are big ways of doing that, such as having a royal commission, as happened in Australia. There are also simple, pragmatic, quick ways of doing it. Modifying the Bill so that it could deal with other legacy cases of regulatory failure would be a very sensible way to do it.

The Chair: I call Matt Rodda.

Q55 Matt Rodda: Thank you, Ms Ghani. I thank the witnesses for their evidence today. My first question is to Mr Brown about the effect of the issues we have discussed today on the People's Pension, which is a very worthy scheme offering pensions to many people who otherwise would not be able to receive them. What are the potential issues with the levy and the way it affects the People's Pension and pension savers in the scheme?

Philip Brown: Yes, of course. Fraud is a serious issue and people should have a route to redress, as has been said by other witnesses. The challenge is how you pay for that redress.

The current levy system was created a long time ago, before master trusts existed. The People's Pension is a master trust and a not-for-profit organisation. If a levy is put upon us, it comes from our members' savings—from the savers we are trying to help create pensions.

The challenge we have with the current system is that it works on a member basis. Between ourselves and NEST, as the two very large master trust schemes, we paid approximately 37% of the Fraud Compensation

Fund levy the last time it was taken, in 2019. That is a significant amount of money. At the time, the levy raised £6.9 million.

If we are going to raise a levy using the same mechanism, the current estimate is £350 million. The proportion of that that falls on the two schemes that I referred to is very significant, and it needs to be put in the context that, between those two schemes, we have roughly 1% of the assets in the sector, so there is a very disproportionate effect of how the current levy system works. A fundamental review is necessary for how levies are calculated.

Q56 Matt Rodda: In summary, are you saying that a very large proportion of the cost of the levy is falling on pension savers who are on low incomes and whose assets form a small part of the overall sector?

Philip Brown: Yes, absolutely. Between ourselves, the People's Pension and NEST, we are serving the small and medium-enterprise end of the market. Those savers are all relatively new to pensions, so they have modest funds, and it is a very disproportionate effect if you are taking roughly 37% of the fees from those organisations.

Q57 Matt Rodda: Thank you for explaining that so clearly to the Committee.

I wonder whether I might ask Dame Elizabeth a short question as well. In your view, Dame Elizabeth, should there be a wider explanation of the rights of consumers in relation to the regulatory failure that we have heard about today?

Dame Elizabeth Gloster: I am not sure I understand the question. What do you mean by “a wider explanation”?

Matt Rodda: Exploration, sorry. Should there be a wider exploration of this issue?

Dame Elizabeth Gloster: I am not sure what you are suggesting. Do you mean the regulatory failures in connection with LCF or more widely?

Q58 Matt Rodda: Is there a need for a broader review of regulatory failure?

Dame Elizabeth Gloster: I do not think that is something that I am qualified to comment on. I did my report. The problem about wider reviews is that they need to focus, as my report did, on a specific case and specific facts. The idea of a judicial commission looking at all the financially regulated firms that have gone bust in the last two years—I am not sure what it would achieve beyond the failings that I have identified in my report. It might identify other failings, or it might not, but I do not know that my answer is a very informed answer to that.

Q59 Matt Rodda: Well, thank you for trying to explore the issue. I appreciate your expertise in this matter.

Finally, I want to turn to Mr Agathangelou—I apologise if I have mispronounced your name. You talked about catastrophic failure across the system. I am particularly interested in the issue of pensions, and obviously we are talking about the wider financial services system. I wonder whether you might comment on the scale of the problems in the pensions sector on its own.

Andy Agathangelou: As it happens, most of my career has been connected to the pensions sector. To know that the issue is very widespread, you only have to look at

the report produced by the Work and Pensions Committee as a consequence of the excellent investigation that it had into the pension schemes problem. There is a long list of recommendations in that report. Most, if not all of them, are very warmly supported by the Transparency Task Force.

Unfortunately, the trajectory is worsening. The problem we have is widespread regulatory failure leading to catastrophic losses for people—sometimes literally life-changing losses—and sometimes extreme emotional harm as well as financial considerations. The problem is getting worse. I genuinely believe that the only way we are going to have a chance to deal with these issues systemically is if there is a high-level, widespread investigation into what is going wrong. I believe that could be carried out in a very constructive way. It is not about apportioning blame; it is about having very honest conversations about what is actually broken here and the most pragmatic ways to solve it.

The Chair: I now call Mr Gareth Thomas. You will be pleased to know the witnesses are with us until 11.25 am, Mr Thomas.

Q60 Gareth Thomas: Thank you, Ms Ghani. Dame Elizabeth, can you tell the Committee whether you are confident that there is now at the FCA a proper audit and lesson-learning process from each financial regulatory case that they handle?

Dame Elizabeth Gloster: I do not think I am in a position to do that for this reason: I produced my report and recommendations. I presented to the new chief executive officer at the FCA, to some of his senior staff and to the non-executive directors. As you know, the FCA at all levels has accepted the recommendations in my report. It has said that it is addressing the problems but my team and I have not been tasked—I say that thankfully, I think—to go in and conduct a subsequent audit of whether our recommendations have, indeed, been implemented, so that what we identified as systemic failures have been addressed. As I already said in a previous answer and I said in my report, I believe that the implementation of the recommendations should be closely monitored and should be audited to ensure that things have changed. However, I am not in a position to know that.

Dorothy Cory-Wright: May I add one point on that? I want to point out that Dame Elizabeth's work concluded in the time period January 2019 and we were also told subsequently by the FCA, which we have not verified independently, that work had been going on during the period prior to our recommendations being made. It may be that that has been the subject of internal audit, but we just do not know about that.

Q61 Gareth Thomas: Presumably, though, Dame Elizabeth, given how much time you put into the report, just professional curiosity might mean that you would want to know whether there has been the scale of cultural change that you identified as the top lesson to be learned from the LCF scandal. I ask whether the new chief executive of the FCA has offered to meet you to try and explain the scale of cultural change that has happened subsequent to your report.

Dame Elizabeth Gloster: We certainly had a meeting, as I said a moment ago, with the new CEO. As I said in my report, the FCA's response should involve an assurance

exercise to confirm that any steps taken have achieved the desired objective. Indeed, it is important and was a significant feature of my report that there should be some sort of audit process that would be made publicly available.

Q62 Gareth Thomas: Okay. I want to ask the Transparency Task Force witnesses: one of the issues before the Committee, as you rightly identify, is whether anything like the LCF scandal could ever happen again in the future. Let us take a hypothetical example. Say there is a major financial services business with more than a million customers. Its board said one thing to its customers—indeed, its leadership said it vigorously over a period of time—only then to advocate the complete reverse of that within the space of 12 months. Is that the sort of thing you would hope the FCA nowadays would properly regulate and would not be too worried about perimeter issues?

Andy Agathangelou: I do not think we need to talk hypothetically about whether there is a chance that a case like LCF could happen again. We believe cases—plural—like LCF are happening right now and we have evidence to support that claim. I will pass over to Mark for any further comments that he would like to make, but I will commit to providing all the Committee members with evidence relating to a range of issues that I believe will lead to the conclusion that this is a very serious problem that has not yet gone away. It is happening now.

Mark Bishop: I agree with that. I would just like to give you a few examples of what I mean. I would like to pick up on something that Dame Elizabeth said, because I strongly agree with it, which is that the single biggest problem that the FCA has is cultural. The problem with cultural change is, first, it takes a while to fix, even if you are trying to fix it. Secondly, the closer you are to it, the harder it is to spot the problems, let alone know how to fix them.

One of the first things that Nikhil Rathi did in response to the two independent reviews published in December was to announce the appointment of an executive director for transformation. This is a new role that has never existed before. He did not advertise the job externally. He gave it to Megan Butler, and Megan Butler is a name that is mentioned in Dame Elizabeth's report as one of the people who held a position of responsibility in relation to LCF. She does not apportion blame specifically, but she does apportion responsibility. I believe that had Raj Parker not succumbed to FCA lobbying to also redact the names of executives, her name would have appeared in that document as well. She may be a highly intelligent individual and acting in good faith, but she was literally a founder employee of the Financial Services Authority in 2000, and I would question whether a fresh pair of eyes and a fresh mind might be better suited to the job of transforming the organisation.

To use the hypothetical example of whether something similar might happen again, Dame Elizabeth helpfully pointed out in her report that, prior to the summer of 2016, LCF did not have authorised status from the FCA, and therefore it had to get its promotions approved by a third party that was on the register. This was a firm called Sentient Capital London Ltd. The first complaint or notification into the FCA that there were concerns about whether those promotions were accurately happened in January 2016, five and a half years ago. I looked on

the FCA register just last Friday when I knew I was coming to this session to see whether there was any investigation under way against that firm or its directors, or whether it had a limitation attached to its registration that meant that it could not approve promotions for third parties, and I found that none of those things has happened.

So not only could another LCF happen, but it could happen using one of the same firms today, five and a half years on, and that seems to me an example of the complacency of the FCA that is, in the view of most campaigners, culturally where the problem is. Also, Gareth Thomas talked very early on in this evidence session about the voice of the consumer and to what degree are consumers' voices being heard in the FCA. I think a genuine transformation of the FCA would have consumer voices, including campaigners, very much at the heart of it, and I do not think that that is happening.

Q63 Gareth Thomas: Thanks very much. I want to come back to the extent to which consumer voices get heard. Dame Elizabeth, can you or members of your team set out for the Committee whether there ever were meetings between the FCA and the groups of customers of LCF who were complaining about its products and its mis-selling?

Dame Elizabeth Gloster: Between the FCA and bondholders and LCF? You mean after the company became insolvent or—

Gareth Thomas: And before, because there was a pattern of customers trying to get in touch with the FCA to complain about LCF's products. I am interested to know whether there was ever any attempt to meet that group of customers by relatively senior people within the FCA.

Dame Elizabeth Gloster: Let me answer that in this way. First, it is clear, as my report sets out, that a lot of complaints were made or questions raised by consumers and bondholders, or prospective bondholders, and they were not dealt with adequately. There is a full chapter dealing with that. One of the criticisms that I made was that the communication or the recording of complaints was not adequate. I will ask John Bedford to come in here, but I do not think that there was, before the company went into administration—or was shut down, effectively, by the FCA—any meeting with groups of bondholders. John, can you help me on that?

John Bedford: Of course, Dame Elizabeth. As far as we are aware in relation to the intervention in 2019, there were no meetings between bondholders, or groups of bondholders, and the FCA.

The Chair: Mr Thomas, can you make this your final question, please?

Gareth Thomas: Sure. The biggest issue for the FCA in terms of particular cases at the moment and consumers is, as I understand it, the potential demutualisation of Liverpool Victoria. I wonder whether any of the witnesses find it extraordinary that no policy paper has been published by the FCA on the handling of demutualisations.

The Chair: Mr Thomas, I am afraid your current question is not within the scope of the Bill, so unless you have another question to ask, I will move to another Member.

Gareth Thomas: That is fine.

The Chair: Thank you. Minister Opperman, we have four minutes.

Guy Opperman: Nothing from me, but thank you very much, Ms Ghani.

The Chair: Minister Glen?

John Glen: No, Ms Ghani.

The Chair: Okay, that brings us to the end of this session. If there are no further questions from Members, I thank the witnesses for their evidence. Because we have closed a little sooner than expected, I will invite the Government Whip to propose the Adjournment. Please will Committee members leave the room promptly by the door marked "Exit", while observing social distancing? The Committee will meet again today at 2 pm in Committee Room 10 to begin line-by-line consideration of the Bill.

Ordered, That further consideration be now adjourned.
—(Alan Mak.)

11.21 am

Adjourned till this day at Two o'clock.

