



Treasury Committee

Oral evidence: [Treatment of Financial Services Consumers](#),
HC 631

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Members present: Mr Andrew Tyrie (Chair); Mark Garnier, Mr Andrew Love, Alok Sharma

Questions 68-124

Witness: **Caroline Wayman**, Chief Executive and Chief Ombudsman, Financial Ombudsman Service, gave evidence.

Q68 Chair: Thank you very much for coming to give evidence to us this afternoon. Can I begin by asking you about the relationship between fraud and payday lending? I notice from your interesting report—thank you for producing it—that you say, and I quote, “While identity fraud occurs across the banking and consumer credit sector, it is suspected” by which I presume you mean you suspect, “that the design of payday loans has made them a particular target for fraudsters”. Can you say a bit more about that?

Caroline Wayman: Yes, certainly. It was something that was quite striking from the sample of cases that we looked at, and I think something like one in six of the cases that we looked at in the sample were ones where people were saying, “I didn’t take that out. That wasn’t me”. One of the things that were particularly prevalent there as well was that it was younger consumers that seemed to have fallen foul of this, perhaps because they had provided their details somewhere else and, therefore, those details had fallen into the wrong hands. It was something that was quite striking, in terms of the proportion of cases where there were allegations of fraud and potential actual fraud as well.

Q69 Chair: It sounds as if payday lenders need to put in additional protection.

Caroline Wayman: Possibly. It is general awareness about the website that you are going to. One of the other things that we have seen is people think that they are interacting with a payday lender—

Chair: They are dealing with a broker?

Caroline Wayman: —and they are actually dealing with a credit broker. So people put in their details thinking they are applying for a payday loan, when in fact they are

providing those details to an intermediary. We have seen cases where people are having up to 20 fees, individual fees, taken from their account. These people will quite often then contact their bank and say, “I think I have suffered fraud”. They will phone up their bank and say, “Where have all these come from, I don’t recognise them” and it will often be that they have entered those details applying for a loan. These are very vulnerable consumers often that this is happening to.

Q70 Chair: In the great scheme of things, where does payday lending sit as a proportion of the concerns that are coming across your desk?

Caroline Wayman: Our volume of cases about payday loans is still relatively modest, particularly in proportion to the amount of attention it has had. I think it is important to say that it is but a part of a broader consumer credit market. Certainly, our caseload, we see cases around all sorts of different versions of short-term credit. So everything from logbook loans—so you are borrowing against the value of your car—to loans where people have people acting as guarantors. Often it is when the person who acts as a guarantor realises what they have agreed to that things can go wrong.

I do think it is important to see payday lending as part of an overall set of issues, part of an overall market, not just an individual thing in and of itself.

Q71 Chair: One other aspect we are going to concentrate on a little bit in the hearing—partly because you have produced a report on payday lending—is have you given any thought to the question, “Is it possible to regulate away these problems in payday lending?” There are undoubted problems and some severe abuses. In that context, whether you think that Wonga are adding to them or subtracting from them?

Caroline Wayman: I think regulation is taking the market in a good direction in terms of improvements in things like rollovers, which were a real problem, and a lot of our caseload was people who had rolled over repeatedly. So we are seeing a bit less of that, but I do not think you can regulate away the need people have for the borrowing. Certainly, from the people who phone us up, there are people who are saying, “I can’t feed my children this week”, so it is a very real, very immediate need that people have. You do have to see it in a broader context that improvements to clarity, improvements to how customers are treated, are fantastic and must be the right thing to do, but it does not mean that individuals will not have a need for short-term lending and for lending that is pretty immediate. So it can be a mistake, perhaps, to see these things in isolation and think that we must close down payday lenders and that will solve a problem. Actually people have a fundamental need and a lot of the people who call us are really struggling. Most definitely it feels like very tough times out there for people and their needs are very immediate.

Chair: That is helpful.

Q72 Mr Love: As the Chairman just said, you have produced a very comprehensive report that goes into great detail, admittedly on a relatively small sample. How would you characterise the marketplace? You have mentioned about vulnerable consumers and you have

mentioned the conversations that were had on the telephone. How would you characterise it overall?

Caroline Wayman: I have talked about vulnerable consumers, but one of the things about payday lending that we have learnt over time is that all sorts of people are taking payday loans now. One of the things that have come to our attention more recently is that it is pretty prevalent in student communities. A lot of the student unions are quite worried about the number of people who are now relying on payday loans to supplement their income. Again I think it is an area where obviously there are people that I have been describing in very difficult and vulnerable situations but they are used by a broader set of the population as well. It is an evolving and changing market. It is a very innovative market. That is one of the challenges for regulation is actually keeping pace with how it evolves and how it changes is very difficult.

I do think that one of the plus sides, which we have always observed, is that compared to some other ways in which you borrow money there is reasonable clarity about, “I borrow this. I pay back that”. The cases we see are not typically about affordability or surprises about that basic bargain. They are more around the way in which it is administered, charges and the things that we have been highlighting in the report. So, yes, I think it is a very dynamic market that will continue to evolve.

Q73 Mr Love: In your report you go into who the guilty parties in all of this are. Of course, Wonga, which is by far the largest payday lender, comes out at the top of your list. In terms of number of consumer detriment issues that have been raised with you, are they largest because they are the largest payday lender or are there others that are worse than them?

Caroline Wayman: They do not have the highest uphold rate. They are the largest in volume, but I think that is primarily—and it is hard for us to judge—about their market share. In terms of their uphold rate, there are some firms who have uphold rates up into the 80s and 90s, Wonga’s has not been at that sort of rate. Off the top of my head I think it is in the 50s. We publish it. So they are not necessarily the worst by any stretch of the imagination in terms of that. When I say “upheld” that is cases where we have said they have done something wrong and it has to be put right. So there are others who have worse uphold rates.

Q74 Mr Love: Let me ask you the question: have you published those uphold rates?

Caroline Wayman: We included some within the report and went further in the report than our typical complaint reporting, just because of volume. To make it into our normal published stats you have to have a certain volume, you have to have 30 new cases and 30 closed cases in the period. But we went further down—I hear my colleague rustling to find the stats—and we provide a bit more detail there around particular businesses.

Q75 Mr Love: With all the challenges that there have been in the press and on our television screens about payday lending, has it been part of your research study to try to discover why people use the marketplace? As you have indicated, is it because they cannot

feed their kids? What is it? Is it because of speed and convenience? What characterises the reasons why people are accessing payday lending?

Caroline Wayman: Others are probably better placed to answer that. In our experience obviously we see a particular subset of the market, but I think we have been struck by the breadth of different backgrounds now of people taking payday loans. As I mentioned, students is one particular group that perhaps would not be something people would naturally associate with payday lending but there is a growing prevalence among students. I think that has changed over the time we have been dealing with these sorts of cases, but others are probably better placed to say overall what the marketplace looks like.

Q76 Mr Love: The report is based on 794 cases that were brought to your attention. In Wonga's case the Financial Conduct Authority found against them in over 330,000 cases, so consumer detriment is happening on a very extensive scale yet it does not seem to impact on your caseload. Why do you think that is?

Caroline Wayman: Yes, I have to say that is something that has been of concern to me. It is part of why we did the report and it is part of why we have been doing quite a lot to try to raise our profile in relation to this issue. One of the issues that we hear back from people and the organisations we work in partnership with is that there is a real shame and fear factor in coming forward about these things. People do not like to talk about debt generally. I think it is something where, prior to all the work we have been doing around payday lending, I was very conscious that in PPI people do think "ombudsman"; you think "PPI, where might I go for that?" People will think, "Oh yes, I think the Ombudsman can help me with that" provided we reach them before someone phones them up and persuades them to do it that way. We are in people's thoughts. Whereas for payday lending, I think our caseload is probably disproportionately lower than it should be, as you are alluding to, compared to the scale of detriment. It is not that I am in the business of wanting more complaints but I do think that it is our duty to try to reach the people that do have these issues. That is why we have been doing quite a lot around trying to get people to get us into their thinking, and we have been working with StepChange to try to enhance our profile in this area and we have launched a particular part of our website. So we are doing quite a lot because, for me, the caseload—as I think your question was alluding to—is not necessarily representative of the scale of detriment.

Q77 Mr Love: You mentioned a contrast with PPI, would that be debt management companies' activity, which is entirely unknown as far as I am aware across the high cost credit sector? Presumably there is little profit to be made from this sector?

Caroline Wayman: That is the issue. So there is a little bit of closed management activity in the payday lending world, but not a great deal for the reason that your question alludes to. Whereas with PPI there is a sum of money that is likely to be sent at some stage that they can easily get a chunk of, in payday lending people are in debt and it is more difficult to see how that model works. I think general awareness of the Ombudsman in PPI goes much beyond the closed manager's activities, and obviously that has been a huge part of our caseload for a long time and—

Q78 Mr Love: Are the people that indulge in high cost credit becoming more diverse now? As you mentioned, students are not really one of the groups that you would automatically assume would get involved. Is the demographic peculiarly unhappy to involve themselves with the formal regulatory structures, whether it is you or the FCA or whoever?

Caroline Wayman: Yes, again, we do quite a lot of work to try to reach younger groups, younger people, and I think it is a challenge for organisations like ours to try to make sure that our service is responsive to the different needs people have. We have everything, from people who would want to just have a completely online experience with us to people who want to come with plastic bags full of their paperwork and come and have a conversation. There is quite a broad spectrum of what people need from us. Again, it is something we are working on at the moment to try to think about different ways that we can reach students, as one example.

We are talking with some organisations about how we might promote some of our messages through student unions, again in partnership with the student unions and with other organisations, that therefore people will start to think, “Okay, that is an option for me, so I can phone these people up and they’ll be able to help me and they’re not going to tell my parents”. It is that sort of thing you have to get over. There is a risk they think of us as a bureaucracy, so that means, “People find out. My parents know I’ve borrowed all this money”. That is what we have to try to do. There is always more for us to do, to try to show that human face to people so they think, “It is okay actually, I can phone them up and they’re going to help me through”.

Q79 Mr Love: Two final questions. First of all, of course, the Financial Conduct Authority has produced an initial report and now a capping report. One assumes that will go through and become the framework on which they will operate and the Competition and Markets Authority has issued its report. Were you involved in the construction of either or both of those reports, and what is your attitude towards the thrust of them, that they are very strongly regulating this sector?

Caroline Wayman: I think we provided input to both. We can provide insight based on our experiences, which has the advantage of being real consumers telling us what they think about things. Perhaps the disadvantage is that we know we only see a particular slice. We are already starting to see some impact of some of the regulatory changes that have happened already. They do help with some elements of the problems that we have seen.

Back to my opening remarks, I think one has to be cautious about thinking you can regulate away a need or the underlying problem around people and debt and the confusion that that creates. That is not to say I do not think that these have been steps in the right direction. The other thing is that sometimes these things need to be given a bit of time to bed in and see what their impacts are. Their impacts are often not felt immediately. They need to be allowed to run through the system. For my side I would caution the FCA against wanting to add lots and lots more because, until you know what the impact of the first set of changes you made is, I think it is tricky to add more. So we would be saying, “There are some good things that head us in a good direction, but let us see what impact that has. Let us see what it does to the rest of the sector”.

Q80 Mr Love: The question that everyone is asking and no one as yet can answer—I would like to get your feel for the answer to this question—it comes back to the point that the Chairman made, which is: are we regulating to such an extent that we will push people who are in genuine need? Your report shows 42% in financial hardship. You mentioned people on the telephone saying, “The reason for this loan is I need to feed my kids” or, “I need an emergency loan to see me through the next week or two”. It is called payday lenders because you are working up to payday. Are we in a sense not recognising the impact that this will have in forcing people into the unregulated sector? Are you doing anything in the cases that you are dealing with to see whether people—it is not something they talk about much—use the unregulated sector, whether they feel it has become so hard for them in the payday lending sector that they will need to go out to the unregulated part of the market?

Caroline Wayman: That must be a risk. As you say, it is not something people particularly talk about. In a sense, we only get to see them if they are coming to us about things that are covered. But back to another part of the unregulated sector, there are websites that set themselves up pretending to be something regulated. People go there and they think that they are giving their details to Wonga. But they are not; they are giving it to someone else. They are scam websites. I do think it is an area where interventions have to be thought about in the broader context and how they impact overall, not just in that particular slice of the market.

Chair: Those are very helpful remarks, well taken.

Q81 Mark Garnier: Can I turn to your relationship with the independent financial adviser community? I do not know if you saw it but the *FTAdviser* reported on a survey by a company called Panacea Adviser. Did you see this?

Caroline Wayman: I did, yes.

Mark Garnier: You did. It was 183 people that responded to a survey and, as I understand it, I think they were invited to respond. Not like a YouGov opinion poll where they were randomly phoning people. Nonetheless, 58% think that FOS adjudications are currently not fair, while a further 25% describe themselves as unsure as to whether they are fair or not. What do you think of that? Are you worried about that finding?

Caroline Wayman: It is something I would like to put a focus on as to how to engage with this part of the industry, because it certainly is an area where I do hear concerns about us as a service. We do quite a lot and relatively recently we refreshed our format around how we go out across the UK to hold events, so organisations are able to come along and ask us questions.

One of the things we have done recently, rather than the classic turn up and, “Here are my slides and I am going to tell you stuff”—death by PowerPoint—we have made it a bit more interactive. We sit down on tables and we talk and answer any question that people want to ask of us.

Q82 Mark Garnier: Is that from people who are being complained against or—

Caroline Wayman: Yes, that is for small businesses. We hold events all over the country. The frustration in a way is I sometimes feel the people I really, really need to speak to we cannot quite get to come to those. But what we try to do, as I said, is to do those all over the country so that we are getting out into local communities. Those have been well received. Partly the relief that it is not death by PowerPoint, but also just that we are human and prepared to sit and have a conversation and answer these questions. I do understand that it can be a worrying time, particularly if it is your first complaint to the Ombudsman. I think for very small businesses it is a much more immediate thing.

Q83 Mark Garnier: Are we talking about IFAs or just general businesses?

Caroline Wayman: In general actually. In the consumer credit market we have a lot of smaller businesses there as well. We try very hard. Do we always get it right? I am sure we don't but we do put a lot of effort into trying to recognise the differences between—obviously a big proportion of our workload comes from the big banks, at least two-thirds of what we do.

Mark Garnier: I am going to come to them in a minute, if I may.

Caroline Wayman: No problem at all. But, yes, I know there are concerns that persist. For my part, what I will try to do is be as open as I can and say, "I am very happy to listen to these concerns" and, where I can, try to allay those fears and help people to understand what it is really like, what we really think when we look at cases.

Having published all of our decisions hopefully it has been a helpful step. Our decisions are there for everybody to see and for people to judge for themselves the consistency and those other issues that people rightly worry about. There is more we can do and, in whatever forum is appropriate, I am keen to try to reach out further. So that is some of what we are doing.

Q84 Mark Garnier: Do you think the IFA community feels a little more bruised than perhaps other communities, the smaller types of businesses, or do you think their survey represents, generally speaking, a pretty average type of response towards you? They are not particularly more worried or less worried than anybody else.

Caroline Wayman: There do seem to have been particular concerns raised by the IFA community around—

Q85 Mark Garnier: Does that worry you?

Caroline Wayman: Yes, because I would prefer for them to not be feeling like that and to have confidence. I think I understand some of the underlying reasons for that. We have done various things to try to deal with some of the previous concerns people had. A particular issue for smaller businesses was the cost of regulation and the cost of bringing cases to us. That is why we now have 25 free cases.

Q86 Mark Garnier: It used to just be two, did it not?

Caroline Wayman: It was three. It was three until last year.

Q87 Mark Garnier: Then it is £500 per case?

Caroline Wayman: £550. So that takes a significant proportion of smaller businesses out of paying case fees. It is one of those things again, though; it is not particularly something we will talk about a lot. People still talk about their worries about costs, completely understandably. That is why we structured the funding in that way. We have tried to reflect who sends us most business and the relative impacts for smaller businesses of paying individual case fees.

Q88 Mark Garnier: This getting out to the regions and meeting with these communities, is this something that you have introduced yourself since you have been in charge or is it something that—

Caroline Wayman: I would love to claim it, but no. I have been myself but it is something we have always done in some form. We have to balance our costs and appropriate use of our resources. It is a relatively small team we have. We have a small outreach team and then some of our ombudsmen will go out and be at the events as well. I think it is quite nice for people to meet the real decision-maker, the actual ombudsman, and see that they are in fact human, they listen and they are prepared to answer questions.

Q89 Mark Garnier: One thing this Panacea survey does come up with, which is quite interesting, is a mismatch of perception between what you think and what Panacea thinks are the number of frivolous or even vexatious claims. You think 1% is vexatious or frivolous and the Panacea survey—and I keep stressing it is only 183 self-selecting respondents—has 74%. Do you think it is coincidental that all the people that contribute the 1% were answering to this or do you think you might be missing something, that there may be genuinely more vexatious cases out there than perhaps you imagined?

Caroline Wayman: I have to say that for me for a case to be frivolous and vexatious that is a pretty high bar. So frivolous and vexatious, it is not you are not right, it is not that you do not win, it is that you just do not have a case. That is what we are talking about. The courts have a similar thing. The test there—and this is as set out in our rules—is that it has to be almost so hopeless it does not even need to be looked at. So the rules provide for the idea that if it really is that then we would dismiss it. We would not actually look at the merits of it. To put this into context, for somebody to say, “I think you gave me bad advice and I think this wasn’t suitable for me”, which is what most of our investment complaints are about, on the face of it I cannot possibly know until I have looked at the detail of the advice, what happened, the consumer circumstances, to make an assessment of that. I might end up concluding that it was a suitable recommendation and so they do not win—to use a colloquialism for that—but that does not mean it was a frivolous and vexatious complaint. So that is a very high bar I think.

Q90 Mark Garnier: When you go out and meet people, do you think that what they would consider frivolous and vexatious might not be what you would, or the other way around? They have a lower bar.

Caroline Wayman: Yes, I am sure that is right. Not that long ago I was at an event where an insurer was saying, “Oh, it is outrageous because half the cases you agree with us so that means that in half cases it was frivolous” and I said, “No, it means in half the cases we agreed that you had got the right answer by the time it came to us”. I think it is a little bit outrageous that in a market where nothing much very different is happening, motor insurance, household insurance, still in half the cases we are needing to say, “No, you have that wrong, even after you had the chance to put it right. We are saying you need to do something different.” So I do think—and this happens in PPI quite a lot as well—people talk about “vexatious claims”, what they mean is people saying, “I think that something has gone wrong here” and the business does not agree. That is not the same as vexatious.

Q91 Mark Garnier: So what you say is upheld, and that which is not upheld gets batted back and you say, “No, no, you do not have a case”. If you are an IFA and someone is not upholding it, you might consider that frivolous and vexatious where you would—

Caroline Wayman: It is a terminology thing, and I think for us “frivolous and vexatious” has a very specific meaning. I think it sometimes is used in a broader sense, which is not how I would see it, no.

Q92 Mark Garnier: What is the uphold rate on IFAs? Would you know that off the top of your head?

Caroline Wayman: I think it is—should I guess? I can hear my colleague rustling for figures, but in the 40s, I think.

Q93 Mark Garnier: That sort of order of magnitude, so the IFA community could genuinely, by misunderstanding the terminology of frivolous or vexatious, turn around and say that 60%—if that is right—is frivolous and vexatious?

Caroline Wayman: It is one of those things, isn’t it?

Q94 Mark Garnier: You see the point I am making?

Caroline Wayman: I do entirely, yes, but it is important to recognise the distinction. In a PPI context, it is often used to talk about customers who ask whether they were sold something or not, and—42%, there we go. That was all right, wasn’t it?

Mark Garnier: Yes.

Caroline Wayman: Yes, in a PPI context, it is often used to just talk about people that the banks say, “Oh, that must be vexatious because they did not in fact have a policy” and again, we would say in that market, saying, “Did you add that without telling me?” is a

reasonable consumer question, because it happened a lot, so it is a perception issue sometimes, yes.

Q95 Mark Garnier: Can we just quickly turn to the banks? I am slightly referring back to some of the work we did on the Banking Commission with complaints against banks, and it is quite interesting that, generally speaking, it seems to have been in the region of 70,000 complaints against banks on an ongoing basis: 65,000 this year, 77,000 last year, 64,000 the year before. It is a pretty consistent ballpark figure. Do you get the sense that banks to a certain extent are using FOS as an outsourced customer complaints department?

Caroline Wayman: I have had concerns about that in the past. I think particularly again in a PPI context, however many years on we are from the judicial review, we are still getting blocks of cases that should not need to come to the Ombudsman Service. I do not see so much that worries me in terms of thinking it is an easier answer than employing your own, because we have had those worries in the past; in endowments it was a real issue. It felt like it was almost cheaper to just let them come to the Ombudsman.

I think we do see, especially away from PPI, genuine improvements in terms of the bigger banks' engagement with the need to put things in at the front end. Obviously they do now have obligations around root cause analysis and making sure that they are learning from Ombudsman decisions. I think that has moved in a positive direction, so I am less worried about it generally and I do see some really concerted efforts to improve complaint handling from the bigger banks, but there is an awful lot still to do on PPI in that regard.

Q96 Mark Garnier: I think my colleague is going to come on to PPI a bit later, but it was just to summarise that. When it comes to non-PPI general complaints against banks, you feel that the banks are pulling their weight in terms of trying to address these problems?

Caroline Wayman: I think so. An example is—and it is one we will all need to keep an eye on, I think—packaged bank accounts are probably our biggest growing volume area at the moment. In PPI terms it is still really small, but compared to other things we see complaints about, it is about 300-ish a week, something like that.

Q97 Mark Garnier: It is slightly blindsiding and I am not trying to pick you up on anything, but just your opinion: certainly one of the things that has been discussed is that you have these evermore complex issues with bank accounts, you do not know how much it is costing you, you now have packaged bank accounts and various stuff going into it. Do you think—this is your personal opinion, I appreciate, you are not necessarily speaking on behalf of FOS on this—that the era of freedom credit, the current account model has run its course and we need to go back to a much more transparent type of current account?

Caroline Wayman: It is difficult again to comment. I think that some of the issues we have seen in PPI were driven off a fundamental problem about the insurance cross-funding, the lending portfolio. It is an interesting one because, with packaged accounts, we see as many people—well, not quite as many, but certainly there are people who would say, “I want to complain about the removal of my fee-paying account”—as there are people who think it is terrible and did not know they had it, and all the rest of it. It does

seem to be the direction things are going in, but the banks themselves are obviously better-placed to see the overall market in that regard.

Q98 Alok Sharma: Thank you very much for coming today. We have obviously mentioned PPI a number of times and, in terms of the number of cases that you are getting in, it dwarfs everything else. The industry has set aside over £23 billion, which is an enormous number, really. But if we compare the waiting times for PPI cases to basically be resolved, just in 2013 I think the figure—if you were waiting between one and two years—was 14% and that has doubled to 31%, and that is across the board. What are you doing to reduce this backlog, because there is a huge backlog?

Caroline Wayman: We are making good inroads into it. As you may know, over the last two and a half years or so, we have needed to double in size as an organisation. We have gone from being an organisation of around about 2,000 people to being 4,000 people and a large portion of those people have been case-handling staff, who we have to teach to do cases. I would say last year we closed more than we received in and this year we should take over 100,000 cases out of the stocks, so we are very much on the right side of the pathway.

Q99 Alok Sharma: But you have made the point—I think, in the reports as well as in other places—that this backlog is going to persist for several years, and you have talked about taking on more people. The reality is also the fact that you are operating with a huge surplus, £113 million on an income of £337 million. Do you not think some of that money could have been spent on getting some more people in, getting them trained up to get this backlog cleared faster?

Caroline Wayman: It is certainly something we have looked at and continue to look at and we are just putting together—

Q100 Alok Sharma: But are you going to do anything about it? That is the point.

Caroline Wayman: I would say we have done something about it, and I think the balance that has to be struck is in the way that the caseload operates. If you think about our overall caseload, so people think about PPI, they think banks and they think complaints about big banks, but PPI is something that was sold for many, many years by all sorts of different people. We have everything from the PPI that you were sold with your double-glazing to the PPI you bought with your car finance to all sorts of different and smaller businesses, so back to smaller businesses for a moment. We recruited a whole bunch of staff. We did a huge amount—and I was personally very involved in codifying our Ombudsman knowledge—and we put together a system that goes further than we have gone in any other regard to codify our answers. I can write a guide to how to deal with Barclays' cases or Lloyds' cases, because we have seen hundreds and thousands of them.

Q101 Alok Sharma: Can I ask you, when you take on these staff and you train them, the first thing I would be very interested to know is what background do they come from, and

secondly, if you are taking people on, are they then dedicated to doing PPI and specifically PPI for a particular industry player?

Caroline Wayman: Yes, they are. It is a huge number of people to have needed to integrate and teach how to make inherently judgment-based calls, so I cannot have a flow chart that just makes commercial decisions part-way through, we just cannot. I have to make fair and reasonable decisions, and so that inevitably just means that we have to teach people to make judgments, but within a carefully constructed envelope. What we did before we took the 2,000 on was to spend quite a lot of time, as I was saying, codifying that knowledge, and wherever possible, getting the Ombudsman to make the calls rather than everybody make them individually.

But it is a law of diminishing returns, that for bigger firms, I can almost write a guide to Barclays' complaints. I shall pick on HSBC or someone else in a moment, but when I get to Cars R Us—I do not think that is a real firm, so stylistically Cars R Us—then it is not quite as easy to do that. What I have to be able to do, and what our basic plan is, is for our case handlers to grow with that, so in a sense they learn PPI 101, and it is as narrow as that when people arrived. We taught them credit card PPI and that is what they were accredited in and they learnt to do that, but they have to now learn how to deal with all sorts of different nuances and all the rest of it.

Q102 Alok Sharma: I absolutely get that, but in terms of solving this backlog, do you have any plan right now that you can tell us about taking on more staff to help clear the backlog?

Caroline Wayman: We will look at it again for next year's budget. I do not think that mass recruitment of frontline adjudicators is the right way to go, because for the simple reason that increasingly what we do not have is lots of straightforward—who haven't I mentioned yet?—HSBC cases. I have increasingly more complicated cases, so you will have seen various media reports around redress, for example, and that gets blooming complicated pretty quickly, so what I need is more skilled people. A big part of our strategy has to be to retain our staff. We will look to recruit further to our Ombudsman panel though, which means that we are recruiting at a more senior level, and again, because increasingly we have cases where people have not accepted our first answer and we need someone to decide, so we have already increased our Ombudsman panel significantly and we will look to do that again next year.

Q103 Alok Sharma: There seems to be a huge variation in terms of the number of cases that are upheld in favour of the consumer and I think in your annual review, you talk about a range of 2% to 97%. Can you tell us which are the interested players that are at the 97% end and which are at the 2% end?

Caroline Wayman: I cannot remember who 97% was. I am pretty sure it is published; I am pretty sure it is in the public domain. The much lower end of the spectrum, so people like building societies on the whole have pretty good records and—oh, it is appearing over my shoulder, it is like magic. The higher end, I do not think any of the bigger banks are at that absolute extreme any more, but there is no doubt that it has taken far too long for banks to get their complaint-handling processes in line with us.

Q104 Alok Sharma: Which are the banks, because I think you talk about you are still concerned that not all banks are following your well-established approach. Which banks are not following your well-established approach?

Caroline Wayman: I think most of the big ones are now, but—

Q105 Alok Sharma: I think for you to make that statement in your annual report, that—

Caroline Wayman: Sure. No, I was going to come on to say it is in the public domain that Lloyds have to go back and do a bunch of cases again. I think that is really disappointing. I think where they have themselves now is broadly in line with our approach, but we are several years on, and what that does is it creates pockets of cases that are at the Ombudsman that do not need to be. So back to an area we were talking about earlier, but more fundamentally, I think it undermines the overall confidence in the system. I think the risk is that people see PPI as a legacy issue and it has been provisioned for, so that is okay, we can all move on, but fundamentally, if customers do not feel as though they are treated right here, they will not regain the trust in other places.

Q106 Alok Sharma: No, absolutely. Just to briefly touch upon that, according to the FCA, there are around 2.5 million PPI cases from 2012 to 2013 that are being re-examined. What has been your organisation's role in identifying these particular failings? How are you working with the FCA on this issue?

Caroline Wayman: We talk to them regularly and we provide them with information, particularly when we see systemic problems around adopting the Ombudsman's approach into people's frontline complaint handling because, again, it should not need for cases to come to the Ombudsman.

Q107 Alok Sharma: Sure. Are there specific areas you think there could be improvements, though?

Caroline Wayman: Sorry, I did not catch the question.

Alok Sharma: Are there specific areas where you think there could be improvements so that we do not have this issue? You talked about this not being a legacy issue, but the reality is if this is the level of cases that are coming back, having to be basically re-examined, specifically what is being done to improve this?

Caroline Wayman: Fundamentally, the businesses have to get it right. It is an obvious point, but they have to get it right at the front end, and I think our perception is that is improving. What we do do is, as well as things joining the inevitable queue we have talked about, we try to look at things coming through the door now so we can give an early feedback on: has it improved, has it changed? One area that I think, as I have mentioned, is already starting to bubble up and will continue to be an issue is around redress, because it is very difficult for consumers to know if what they have is what they are entitled to.

Certainly we have been urging businesses, and there have been some steps, but I think there is still more to do around the clarity of that so that people can just at least be able to know what assumptions have been made. One of the challenges around this whole area is increasingly these are cases that are not about sales that are quite recent; some of these are really old. These are ones where the bank has to find the microfiche and the consumer has found a dusty bit of paper in the loft, and so they are difficult to piece back together. When you get to redress, people need to make assumptions about how you operated your accounts, so that is very tricky and I think there is more that could be done there.

Q108 Alok Sharma: Just a final question from me on this. You have said that you are not necessarily looking to take on more people right now and there is a backlog. I guess the question that anyone would have looking at this is: what is your best estimate then in terms of the number of years by when we will have cleared this and PPI will not be an ongoing issue in terms of the complaints that you are getting?

Caroline Wayman: Certainly, as I said, in the backlog world, we are coming down the right side. I think the question of how long it will go on for is genuinely very tricky. This time last year when we were thinking what might happen in the coming year, we were thinking around about 80,000 cases into next year, which is still a huge number. That is still more than we had for endowments at its peak, so our biggest year for endowments was 70,000. That is still huge. That would need volumes to fall quite a bit further than they have, and the trend that we have seen, which seems to be what is being experienced across the industry, is that while volumes were falling—and they were falling quite consistently—they have now flattened out, and whereas claims managers seem to be packing up and retiring or going to do packaged accounts, that seems to not be the case, so the thing about—

Q109 Alok Sharma: Just to push you a little bit, what is your projection? Are you going to be sitting here in one year, two years, three years, four years, five years from now and are we still going to be talking about PPI on this Committee or will you have basically cleared up all the cases that have come in?

Caroline Wayman: I would hope we would not be talking about it in the context of a backlog, but I guess the point I was seeking to make was that it is not like endowments where there were time limits. This Committee obviously played a big part in helping to make sure that people knew about those. There are time limits in PPI but it is not going to fall off the cliff in the same way, so I do think probably—I will live to regret even thinking about a forecast this far ahead—in four or five years, it might very well be the most complained thing. Mortgage endowments are still our most complained about investment product. It is tiny compared to what it was and it is tiny compared to PPI, but 50 million policies were sold. So unless there is some sort of guillotine, then the natural time limits will start to kick in. It will run on, I am afraid.

Q110 Chair: You raised the point about very old cases and the microfiche and the loft. Do you think, given that there has been a very great deal of publicity and a lot of

opportunity to make a complaint, that there is a case for bringing in a time bar for very early claims?

Caroline Wayman: It is always important to remember that there are time limits and they are the same time limits that apply to everything else.

Q111 Chair: Then a specific time bar for very early complaints in addition to the existing time limits?

Caroline Wayman: I think there are some upsides and downsides to that. I am sure for those provisioning for these losses, then a sense of finality and certainty, I obviously can see the advantage of that from their perspective. I think it is difficult to impose a more draconian time limit to a set of issues, where you know there has been extensive consumer detriment, to make them more draconian than the standard Ombudsman time limits. In the end, obviously these are matters for others and we will apply the rules that are given to us.

Q112 Chair: Have you discussed this with the FCA?

Caroline Wayman: We have, but I have not discussed it very recently with them.

Q113 Chair: What is their view?

Caroline Wayman: I do not know what their current view is. It is an issue they have looked at because at various points people have been saying, “Surely it should come to an end?” and guillotine time limits have been talked about at various points. I think it is important to remember that—

Q114 Chair: I am not advocating it, I am asking for it to be considered, not least in the light of the remarks made today.

Caroline Wayman: Sure, yes. I think it is important to remember, though, that if consumers are given proper knowledge of the possibility that they might have suffered a loss in relation to PPI, then the time limits kick in. So for customers who have been sent a clear communication from their bank or whoever else to say, “This might have happened” then they have three years from there and their time will run out. Whenever we have been around this loop, a point I have often made is, “Then write the letters. Tell your customers and you will begin the clock ticking”. But for whatever reason, I think people have tended to row back. There has been quite a lot of active mailings and a lot of past business reviews that will take their effect, but not wanting to write to everybody, but that is what you need to do if you want people to be fixed with knowledge and then they will either come forward or they will not.

Q115 Chair: Sticking with PPI for a moment, I wonder whether you had any comment to make about the behaviour of some of the claims management companies. It is alleged that their behaviour has itself caused consumer detriment, and it is also alleged that

they may have triggered a number of claims that were bogus or wholly inappropriate. What is your experience? You probably know more about it than most people.

Caroline Wayman: Yes, and I think the claims management market has been one of very varied practice, and some claims managers have not behaved well at various points. We have taken a very robust line with some of them and have needed to send back big groups of cases to them and just say, “Not good enough. Try again” and it has improved. Again, I think it has improved over time. I think early on some of the really troubling stuff we saw was people who were persuaded to put upfront fees on to their credit cards, who never had payment protection insurance, so that is pretty reprehensible stuff. We see much less of that now. I think they have undoubtedly managed to get huge numbers of people to come forward who would not otherwise have come forward. Now, I think it is a shame that they needed to do that, because—

Q116 Chair: They would be better off coming direct.

Caroline Wayman: They would be much better off coming direct.

Chair: Not pay any fees.

Caroline Wayman: Exactly, so it is frustrating. I even have family members who say to me that they were phoned up so many times that eventually they said, “Oh, all right then”.

Q117 Chair: What about the fee structure for claims management companies? Is there any case for taking a look at that?

Caroline Wayman: I think there have been changes made and so there are rules now.

Chair: A flat fee against a portion or some—

Caroline Wayman: Yes. One of the things that I think is an improvement is the transparency around those things, so I believe claims managers are now required to provide a written statement of what the costs will be so that it is not an out of the blue shock to the system that you are suddenly asked to pay this sum of money. Typically, the model now is more about taking a slice of the compensation at the end if they get anything. For some people who would not otherwise have come forward, they take the view 75% of something is better than 100% of nothing.

As I say, it is something we have tried to work in partnership with various organisations. You might recall that, quite soon after the judicial review, Which? and Barclays did something together to say, “You can come to us. Come to the Ombudsman. You do not need claims managers”. But it is definitely one for the future, how do we all work together to think, “How do we make people realise they do not need to?” and make services like mine as accessible as possible. But also back to: people have to have faith in the complaints systems of the banks and others. You have to believe that you will be treated well if you go directly. One of the reasons claims managers have such traction is they persuade people that they need them to get the banks to listen. That was a bit too true for a bit too long. A remark I have made to the banks is that this claims management industry does not work if there are not mass claims to go at. It does not really work if there are not systemic issues where you can say, “I think you might have done this” in a range of

generic ways, and more often than not, it is true. So that is partly what has created the industry, so you have to fix the fundamentals, so you have to not create opportunity.

Q118 Chair: One last area of questioning: your budget. You are running a surplus of £114 million. That is a third of your income. How did that arise?

Caroline Wayman: We collected quite a lot of income through our PPI supplementary case fee, which was in place for two years, and our basic strategy has been to collect the funds that we need to manage through the PPI issue. One of the things that we are always working to, and have tried to achieve through this, is to make sure that the right people pay. Obviously, in order to deal with the casework that we have been talking about, there is a big ramp-up cost that obviously we have now met. But then there is the other side of that, so what we have tried to do is to collect the money that we need to see us through the next couple of years.

To be frank, it is the big banks and the people who sold PPI paying rather than needing to collect income from other firms who were not part of the PPI story. We consulted last year on our budget. We will do the same again this year, and one of the questions we put there was, “Do people think we should be returning funds at this point?” The resounding feedback we received was, “No, we do not think you should because we think it needs to see you through the rest of the story”. We keep that constantly under—

Chair: Alok wants to come in.

Q119 Alok Sharma: Yes, sorry. Just going back on the budget, as the Chairman has raised, that is a huge surplus. I go back to this point—and you raised it—that the reason the surplus has arisen is largely due to PPI, so I put it to you once more: should you not then be using this money to take on more people to clear that backlog, because it is a huge backlog and it seems to be growing?

Caroline Wayman: As I said, we will take on Ombudsmen who are at the more senior end of our pay scales and that will be an investment—

Q120 Alok Sharma: How many would you take on?

Caroline Wayman: I think the investment will be in the region of about £8 million. Already this year we have taken on well over 50. These are statutory decision-makers, so these are people who are going to make legally-binding decisions. We have just appointed and promoted more than 20, 25 internal Ombudsmen as well, and we will do more again next year. It is important to underline that I said frontline adjudicators. Entry grade graduates, often law graduates—to answer a question you are going to get to—are not really the solution to this, because they have to know more. They have to be at a better experience level, and so we are much better off trying to keep the people we have, teach them more and get them to learn and grow, rather than bringing in brand-new people who just drain on the experience resource. There are not easy cases, easy straightforward things to give to brand-new people.

Q121 Alok Sharma: Can I ask: do you set informal or formal targets for your Ombudsmen or each of your staff to say, “These are the number of cases we would expect you in a month, six months, a year to get through”? Do you have this?

Caroline Wayman: Yes, of course.

Q122 Alok Sharma: Are you able to talk about those numbers?

Caroline Wayman: Yes. I could not give the figure off the top of my head but, yes, we have set pretty challenging targets both for adjudicators and Ombudsmen. It is important to say, though, that closing cases is a very important dimension of our performance—it is not the only one—and in a business like mine, you have to be cautious about pushing the dial too far on that. We are charged with making fair and reasonable decisions and Parliament has charged us with that. That is a responsibility we take very seriously, so if mine was a rubber-stamping factory, of course you can, and we have—

Alok Sharma: No, I understand that, sure.

Caroline Wayman: But we have industrialised the process. As I was saying before, we have codified.

Q123 Alok Sharma: Yes. That is how you get efficiencies of scale.

Caroline Wayman: That is how we get efficiencies of scale, exactly. If you ever wanted a tour, I would be happy to show you that in motion because we have done a lot there to make it a much more systematised decision-making tool. But there is still then the judgments that are important that people are able to reach carefully.

Q124 Chair: Public bodies that run large services for a long time tend to pick up quite a lot of slack, so we are not going to examine the value for money aspect of it today very much, but do take away the thought that the Committee will be looking very carefully at what happens on your budget in the months and years ahead.

Caroline Wayman: Of course.

Chair: Thank you very much for coming to give evidence today. Parliament appreciates your work, and we will be keeping a close eye on how it develops over the next 12 months.