House of Commons

Treasury Committee

Oral evidence: Press briefing of information in the Financial Conduct Authority's 2014/15 Business Plan, HC 881

Tuesday 16 December 2014

Ordered by the House of Commons to be published on 16 December 2014

Watch the meeting

Members present: Mr Andrew Tyrie (Chair); Rushanara Ali, Steve Baker, Mark Garnier, Stewart Hosie, Mr Andrew Love, Mike Kane, Alok Sharma, John Thurso

Questions 119-271

Witness, Panel 1 [Q119-201]: **Clive Adamson**, Director of Supervision, Financial Conduct Authority, gave evidence.

Witness, Panel 2 [Q202-271]: **Zitah McMillan**, Head of Communications, Financial Conduct Authority, gave evidence.

Q119 Chair: Good morning. Thank you very much for coming to give evidence to us this morning. You are leaving, your departure almost exactly coinciding with the publication of the strategy review and, 48 hours later, the Davis report and an instant response to the Davis report from the FCA saying they agreed with the recommendations. How closely connected are all these events and why are you leaving the FCA after all these years?

> ***Clive Adamson***: I would like to explain that, if I may, Mr Chairman. Essentially there are three reasons for my decision to leave the organisation. The first is that I have felt for some time that, at some point, I wanted to move on from the organisation. I raised that with Mr Wheatley some months ago and we felt that an appropriate time, if I were to move on, would probably be around the end of my current board tenure, which is March 2016. That was discussed at a RemCo meeting, I believe, in April of this year in terms of succession. The second reason is that, as you said, there is a reorganisation that was announced last Monday taking place. That has been some time in the planning and largely because of that reorganisation I felt that was a good opportunity or an opportunity to reconsider the timing of my leaving.

Q120 Chair: Just before you go on, could I translate that a little bit? Are you basically saying once you saw the strategy you thought, "Crikey, it's time to go"? I mean the direction that the operation was taking.

Clive Adamson: The strategy work started in November 2013, I think, commissioned by the board at that point to think about the future strategy of the organisation. That has been some time working through and there was discussion started around October time about whether the strategy should involve structure change as well. Those discussions came to fruition during the course of October and early November. Those structure changes are quite significant and perhaps I can address those later on in this discussion but I felt that, because of the structure changes, that was a trigger to think, "Is this the right time to decide to leave?"

The third reason, which I think is important, is that clearly I was aware of the criticism in the Davis report.

Q121 Chair: This is because you saw it in what capacity?

Clive Adamson: I saw it in three capacities, one as an individual who was subject to individual criticism.

Chair: That is under Maxwellisation?

Clive Adamson: Through the Maxwellisation process. I also saw it clearly as an ExCo member and a board member, so I was aware of the criticism in the report.

Chair: What was the third capacity: individual, ExCo—

Clive Adamson: And the board.

Q122 Chair: I see. Was this report distributed to the full ExCo and the full board?

Clive Adamson: No. The non-executives saw the full report. The executives did not see the full report. They saw the main part of the report other than those parts that involved individual criticism. I believe Mr Wheatley saw the full report, including all the criticism.

Q123 Chair: Did the full board and the ExCo see the recommendations in draft?

Clive Adamson: I am trying to recall. I think the full board did see the recommendations, yes.

Chair: In draft?

Clive Adamson: In draft.

Q124 Chair: Then there was a discussion with Mr Davis at any level?

Clive Adamson: There was very little discussion about the recommendations. There were one or two where I think the board asked for some clarification, but there was a complete acceptance by the board of the recommendations.

Q125 Chair: Are you aware of any discussions between John Griffith-Jones and Mr Davis about the recommendations?

Clive Adamson: As far as I am aware, there were no discussions. I think there was one exchange of letters about one or two of the recommendations but, as far as I am aware, there were no meetings or oral discussions.

Q126 Chair: Yes. There was a protocol that was somewhat laboriously drawn up to try to ensure that people were not marking their own prep.

Clive Adamson: Exactly. As far as I am aware there was no "mucking around" with the report or recommendations.

Q127 Chair: We will need to take a look at that. I am sorry that I interrupted you.

Clive Adamson: If we come back to the third point, I was aware of the individual criticism. I was aware that that would, as would be normal, likely lead to some discussion about disciplinary action against me. I felt I did not want to be, going forward, part of the story about the organisation. Therefore, overall, I felt this was the appropriate time for me to decide to leave.

Q128 Chair: I should say that when you went one might have expected, as one often does get from the industry in my job, a set of phone calls from the industry saying, "There is one of those so-and-sos who has finally gone; thank God for that", and that is not what I heard at all. What I got back was, "He is one of the best of them. He knows what is going on in there and he is a very tough regulator, but he has a grasp of what it means from the other end, from the business end, and he is thinking it through". They also talked about your frankness and directness, which, if I may say so, has come through in an earlier piece of evidence you gave to the Committee where you talked about the shortcomings of the approved persons' regime.

I have one other line of questioning on which I hope you will be able to show similar frankness. In this report there is strong criticism, or at least there is the reporting of strong criticism, of the publicity and media strategy and the effects it is having on regulation and the degree to which it is being used as a tool of regulation. I am referring particularly to the panel's criticisms, mainly the Practitioner Panel but, when you look carefully, you can see the Consumer and Business Panels think the same. Do you have anything you want to say about that? Are their criticisms valid?

Clive Adamson: I think it is very complex as a regulator to get this precisely right. We felt, as an ExCo and I agree, that in the early part of the FCA it was important to get our messages in the public domain and with the industry. I think we were very overt at doing that and there is also a recognition within the organisation that perhaps we went too far in the early days of the FCA and since then we have been trying to get the balance right.

Q129 Chair: Rowing back a bit from the "shoot first, ask questions later", which you felt had got into the bloodstream too much.

Clive Adamson: Yes, that was too far. My feeling is that, given the scale and scope and remit of what Parliament has given the FCA, communication has to play a role in what we do. I think that is important and absolutely agree with that. The question for the organisation is how to get the tone of that right. As you identified, the Practitioner Panel felt very strongly that our tone was too aggressive. That was discussed at some length with the Practitioner Panel.

We did have a review of our relationship with the Practitioner Panel, partly because of that, and as a result of that review I think it is now in better shape. To be clear to the Committee, I did agree with the communication strategy and I support what that has been. I have some reservations about some of our tone and certainly every piece of work that comes from my area I have been very careful to get the balance right, to make sure it is balanced and measured and not overly aggressive.

Chair: I think there will be more questions in this area and so, rather than pursue it myself, I am going to pass over to Mark Garnier.

Q130 Mark Garnier: Can I just carry on absolutely in this area? You talked about the Practitioner Panel making quite serious concerns about the media strategy and you also mentioned there was a development in the relationship between ExCo and the Practitioner Panel. What other changes were made to the communication strategy as a result of what the Practitioner Panel have said?

Clive Adamson: We did think very carefully about their comments. As an organisation, we have to balance what the Practitioner Panel says versus the other panels. We have a Consumer Panel on the other side who probably welcomed some of the tone of our conversation, but I think, as a result of the Practitioner Panel's comments and, more particularly, as we have gone through the Davis inquiry, we have been much more rigorous about the approval process for external communications, speeches and results of thematic work. We have put in place enhanced procedures to try to make sure we are very careful about it.

This is one of my reflections going forward, which we may come on to later, as I am leaving. I think it is incredibly important that the FCA is seen as part of the solution to the industry's difficulties, not part of the problem. What I mean by that is that I think it is very important that the FCA does not contribute to increased loss of confidence by consumers and investors in the industry by being too aggressive. I think it has to get the balance right. While it clearly has responsibility to identify wrongdoing and should do so, it has to do it in a way that does not lead to lack of trust or slowness in rebuilding trust in the industry.

Q131 Mark Garnier: I am very interested by your comments about the Consumer Panel because the Consumer Panel clearly can benefit from an intelligent media approach—for example avoiding scams, avoiding bogus websites and that kind of stuff—where I can see that the work of the FCA needs to be got out so that people get the general message on what risks are out there.

However, the Practitioner Panel is a very different animal. As I understand it, rightly, these are the people who are regulated—the people that are delivering the financial services that you are regulating—and they were very clear about this. Views were expressed by a number of panel members that the media strategy was an accident waiting to happen and I am particularly interested in that because, of course, practitioners are bound by the rules about disclosures and price-sensitive information and that can affect the market. For them, on 28 March, to very specifically say in their opinion there was an accident waiting to happen, I am curious—and clearly the relationship did not develop like that, but it was a very stark warning by a group of people who understand fully how a badly-handled media strategy can infringe a lot of rules.

Clive Adamson: That is a fair comment. I think part of behind what they were saying, and just to repeat my point, was the concern they had that our overall approach or the way we expressed ourselves was not helping rebuilt trust with the industry. I have spoken to members of the Practitioner Panel and I think they all completely accept that the industry, whether it is banking or insurance or asset management, needs to operate to better and higher standards. They felt that some of our tone, as I said, was not helping rebuilt trust and I think that is behind their concern.

Q132 Mark Garnier: Fair enough. You were obviously at the FSA before. What I am interested in is how the media strategy has changed from the FSA to the FCA and particularly how the approach changed with the arrival of Martin Wheatley in 2011 and/or Zitah McMillan in January 2012. Did you notice a marked difference? Was it a very different strategy or did they continue in a tried and trusted process?

Clive Adamson: There was a difference and perhaps I can explain that. There is clearly a difference in how we conduct regulation and I think you are referring specifically to the communication approach.

Mark Garnier: Yes, exactly right.

Clive Adamson: In terms of the communication approach, in the FSA it was more under the radar. With Mr Wheatley's arrival I am sure he felt strongly that communication, to the industry and consumers and the public, should be what he would call a tool of regulation. I think he felt very strongly about that relative to the FSA. We did incorporate that philosophy into how we did our business. Communication was not distinct from how we conducted ourselves. It was part of how we conducted ourselves.

In conjunction, with Ms McMillan's arrival, who I think has acted entirely professionally throughout all of this and I admire her professionalism, what she brought was more rigour and discipline about how we construct our messages and, in particular, how we try to engage the wider public and not just the industry. I think those are the two big changes.

Q133 Mark Garnier: I am interested in her specifically. As you know, she is coming here after you. She said that communication was an important part of the regulatory toolkit. Can you give us a flavour of what you think that means?

Clive Adamson: It means a number of things. Part of what it means is one of the challenges for the FCA, again relative to the FSA, is the sheer number of firms we now regulate. It has grown from something around 27,000 to something around 60,000 or 70,000 with the additional of consumer credit in 2013. That creates an enormous challenge about how we engage that wide population of firms. Using communication is part of how we engage with that wider population rather than just traditional methods. That is one part of it.

The second part of it is how we try to engage the consumers better. Clearly we do not regulate consumers, but we think it is more important that they understand what the regulator is trying to do, even when we do not do it that well. It is very important that they understand what we do because trust in the regulator by all constituencies, certainly in my view, is very important. That includes both consumers, market participants, firms, clearly yourselves and Parliament.

Q134 Mark Garnier: I can see there are very much two halves of this strategy, one is very much consumer and the other is very much the practitioners, and I completely agree with everything you said about the consumer. There are so many traps and pitfalls that the consumer can fall into, I believe it is a very good strategy to get that message out. When it comes to the practitioner, having been a compliance officer myself on two occasions under two different regulators, the one thing that we received a great deal of was compliance bulletins that were coming to us that were telling us exactly what we should and should not be worried about. This practitioner level media approach is causing great confusion because, in this particular instance, while I can see that this was something that was perhaps meant to be designed to help practitioners, it became a consumer story.

One of the things we do know about the media is one of the fastest ways you can sell newspapers or media is by having a scare to the community story. It can be a nuclear power station being built in the middle of central London is a pretty horrible thing, but also where consumers have been ripped off or supposedly ripped off by another financial institution. This is something that will attract a lot of media attention. To have something that is such a high-risk strategy, knowing what we know about why people buy newspapers, it seemed that this story in particular and, therefore, this approach was quite misguided from the start when it comes to the practitioner side. Again, I would be interested in your comments.

Clive Adamson: I think that is a fair point. That is something the FCA will have to think about very carefully going forward. It is absolutely right that we communicate best practice to this very wide number of industry participants. Where we get more noise is around some of the tone of our other communications, whether it is enforcement notices, the results of the thematic reviews or, in some cases, speeches. Are those perceived by market participants to be causing more problems than they solve? I think that is the issue.

Q135 Mark Garnier: Very interesting. How do you control someone's speeches? Freedom of speech is incredibly important.

Clive Adamson: It is, yes. I think speeches are part of the way we communication to the industry but, again, it is very important that those are balanced and measured, in my view.

Q136 Mark Garnier: Do you think the regulator should write those speeches? You are dangling an interesting fly over a trout here and I am just wondering if we are responding to it correctly. Are you worried that some of the speeches that have been given by people in the industry and the regulatory industry are not giving the right message, are quite inflammatory or dangerous?

Clive Adamson: In some cases they perhaps inflame the problem rather than solve the problem.

Mark Garnier: Would you be happy to give an example of that?

Chair: If not now, later. Would you like to reflect on it? It is a bit of a balance.

Clive Adamson: Yes.

Q137 Steve Baker: Mr Adamson, you have mentioned quite a range of facets of communication strategy. To what extent were the general aims and purposes of FCA communications discussed by the executive committee before and after the events of March 2014?

Clive Adamson: They were discussed. The communication strategy was discussed and agreed at ExCo and the board.

Q138 Steve Baker: What were the headlines of the communication strategy's purpose prior to the events of late March?

Clive Adamson: There were a number of headlines about the strategy. One was trying to clearly link the activity of the organisation back to our objectives, which perhaps had not been done so much in the past. That was regarded as important. One was trying to create a narrative that connected various parts of the organisation, whether it is supervisory, enforcement or policy activity. We felt that was important. Rather than seeing disconnected activities, how do they bring something together? We felt it was important to explain as best we could how what we did related to a particular sector. We have a lot of activities across the organisation. How do they relate to either the banking sector or the insurance sector and so on? Those were the main points.

Q139 Steve Baker: Did the committee discuss the risk of the FCA substantially moving markets?

Clive Adamson: I am sorry?

Steve Baker: Did the ExCo discuss the risk that the FCA's communications would substantially move markets?

Clive Adamson: No, it did not.

Q140 Steve Baker: That is a very interesting point. There seems to be quite a lot of confusion about whether the plan to prebrief was discussed by the ExCo members. What is your recollection?

Clive Adamson: My recollection, and as stated by Mr Davis, is I do not recollect that discussion at ExCo.

Q141 Steve Baker: The executive committee did not previously discuss the potential to move markets through its communications and it did not discuss the tactic of prebriefing to the newspapers?

Clive Adamson: Correct. At least that is my recollection.

Q142 Steve Baker: Martin Wheatley claimed that a particular conversation took place in relation to these events, but there was no minute of that conversation. Do you think there is a problem of poor record-keeping around some of these key decision-making conversations?

Clive Adamson: I do not believe so. I think we do pay a lot of attention to record-keeping in the organisation as a whole and at our committees.

Q143 Steve Baker: Are there lessons to be learned about this set of events for how records should be kept more thoroughly in future when markets are perhaps responding to what the FCA—

Clive Adamson: I think that is fair. As one of the lessons, we need to be extremely careful that every decision is properly minuted.

Q144 Steve Baker: To what extent has the communication strategy, or perhaps the tactics of it day to day, been left to the communications director and the chief executive and to what extent has the whole executive committee been engaged in the structure?

Clive Adamson: I think the whole executive committee was engaged. It was discussed a number of times. If you are talking about the communication strategy as opposed to the particular prebriefing episode, the overall communication strategy was discussed several times at ExCo. I think we did feel engaged enough.

Q145 Steve Baker: To what extent was the operation of the strategy day to day sufficiently understood and supervised by the executive committee?

Clive Adamson: Operationally it was down to both the communication division and the other areas of the organisation that would touch upon that. The ongoing oversight by ExCo was as is usual. We make decisions at executive committee level and then operational implementation happens through the organisation. That is not unusual.

Q146 Steve Baker: Was the specific plan to prebrief the media made sufficiently visible to you?

Clive Adamson: As I said, I do not recall that conversation at ExCo. I am not saying it did not happen. I am just saying I do not recall it.

Q147 Steve Baker: Did you personally know there was going to be a prebriefing?

Clive Adamson: Not until I was informed by email from an individual in communications, I think a couple of weeks or so before the prebriefing started.

Steve Baker: A couple of weeks?

Clive Adamson: I do not have the exact date. The exact date is in Mr Davis's report.

Q148 Steve Baker: My recollection is that there has been an allegation that your name was taken in vain in relation to some quotes. Is that the case? You were quoted in a newspaper article, but those words were not your own?

Clive Adamson: To be absolutely clear and as confirmed by Mr Davis, although it later appeared in the media that it was myself who gave the interview, I did not give the interview. That was one my direct reports and, to be absolutely clear, at no time did I give approval to the quotes that appeared in *The Telegraph*.

Q149 Steve Baker: Is this not a substantial breakdown in the executive committee's responsibilities for setting out the parameters within which that prebriefing could take place?

Clive Adamson: I am not sure I would say it is a breakdown in the executive committee. It was a breakdown in controls and I would say, and again I think it is clear in the report, that this whole event exposed control weaknesses and breakdowns in multiple places in the organisation.

Q150 Chair: It sounds quite systemic.

Clive Adamson: I think I would have to agree that this event looks like a multiple breakdown of controls.

Q151 Chair: I am just using that word. Are we dealing with a one-off problem in a box here or are we dealing with something that is reflecting a system that is not working across many fronts?

Clive Adamson: The question whether it is systemic, to me, has a slightly different meaning. I think this event exposed a breakdown of controls in multiple places, both within supervision, which is my area, that I take responsibility for, in communications and in UKLA. Systemic, to me, means much more, "There is a very systemic problem in the organisation", which I do not think there is. This event exposed, as I said, a multiple breakdown across many areas.

Q152 Steve Baker: I have a profound concern that what we have here is a regular with considerable discretionary power, an obvious ability shift markets very significantly, and events have inevitably transpired in a way that was undesirable. It seems to me that that has consequences for people's ability to take decisions and conduct business in such an environment, which goes to the heart of the concept that we, rather willy-nilly, call the rule of law. Do you think the executive committee has understood this set of issues about regulatory certainty, the rule of law, discretionary power, and how all of that comes together in the way things are communicated?

Clive Adamson: I do think it does. The executive committee and the board clearly are very exercised by this event. I personally am very exercised by the event and, just to be clear to the Committee, I absolutely regret what happened. I take responsibility for my part in that and I apologise for that, on my behalf. It is a very serious incident. I think we all accept it is very serious and we have all realised the influence and power the organisation does have.

Q153 Steve Baker: Just finally from me then, if the executive committee did understand this set of issues about regulatory certainty, rule of law and so on, how could it be that there was such a widespread breakdown of controls that led to these events?

Clive Adamson: That is quite difficult to explain and I think we struggle ourselves to explain how come there was such a widespread breakdown of controls. My only explanation, and it may not be very satisfactory, is that this has never happened before and particularly an event, essentially a crisis, that is self-caused, we have had no experience of. Do I think there is a systemic issue about co-ordination in the organisation? I do not think there is. I think co-ordinate on a day to day basis quite effectively. Do I think there is a systemic problem about elevation? I honestly do not think there is. We elevate an awful lot of things. We can replay all of that if you wish, but one of the things that went wrong here is that we were unused to a self-caused crisis and we were caught off guard by that. That is not a particularly satisfactory answer, but I think that will help.

Steve Baker: I think it is a very important answer, thank you.

Q154 Chair: When you say that you realised collectively the power the FCA has, did you not appreciate it until that point? I am not talking about you personally, but institutionally. From where you sit, you feel feely relatively impotent or weak?

Clive Adamson: If I can perhaps interpret the question, I think we feel, and certainly I felt, that the FCA does have substantial power given to us by Parliament.

Chair: Which we have just increased.

Clive Adamson: Yes. We have to use that very carefully and operate to the highest possible standards. We have taken that and continue to take that, even in the light of my departure, very seriously. I do not think there is any ambiguity about that in the organisation.

Q155 Stewart Hosie: Mr Adamson, Simon Davis concluded in his report that the question as to whether the business plan would contain price-sensitive information has not addressed specifically any stage of the business plan's development up to and including approval by the board. What lessons do you draw from the FCA's apparent lack of focus on price sensitivity?

> ***Clive Adamson***: Clearly that was a mistake at various levels of the organisation. We absolutely recognise that. It does not come from a lack of awareness in the organisation about price sensitivity. I cannot recall an event where we have had a problem with price-sensitive information before. We have an awful lot of price-sensitive information that comes into the building at various levels. That is handled appropriately I think in all the cases I can remember. There was an assumption here, and it was a misplaced assumption, that the business plan could not have been price sensitive. That was a mistake.

Q156 Stewart Hosie: I am going to come back to that. Some of the executive committee members do appear to have been alert to the issue of price sensitivity in FCA market studies, but not in the thematic reviews. Was there a blind spot there in that sense; there was an assumption there could have been price-sensitive information in the market studies but not perhaps in the thematic reviews?

> ***Clive Adamson***: I think that is correct. Our assumption had always been that the announcement of thematic work was almost by definition not price sensitive because it is supervisory in nature was a blind spot.

Q157 Stewart Hosie: I suppose an obviously question then. Shouldn't price sensitivity always be a major feature in the scrutiny of all external communication by the regulator? It is self-evident.

> ***Clive Adamson***: It should.

Q158 Stewart Hosie: Do you maintain that the written briefing you approved for *The Telegraph* was not price sensitive?

> ***Clive Adamson***: I do.

Q159 Stewart Hosie: Simon Davis told us that any reasonable bystander with knowledge of the insurance industry would take the view there was at least a risk of it being price sensitive. Do you appreciate, I suppose even in hindsight, that there was a risk that information could have been price sensitive?

> ***Clive Adamson***: I accept that.

Q160 Stewart Hosie: What is your conclusion then in terms of how this should be handled in the future? What would you put in place, acknowledging the potential risk?

Clive Adamson: That is a fair question. We have already put in place different procedures around the handling of thematic pieces of work so that in future they will only be disclosed in the business plan, that will only be done to the market as a whole and there will be sufficient information given in there that people can clearly understand what the scope of any particular piece of work is.

Q161 Stewart Hosie: Is that basically recognition that even the most anodyne communication can be price sensitive if it is handled badly?

Clive Adamson: It is recognition of three things. First, that, even if we do not believe it is price sensitive, it could be construed as such; secondly, that the reporting of a piece of information could itself make it price sensitive, so we have to be extremely careful about that; and, thirdly, recognising we wish to be transparent about the work we are planning to do, we will do it in a way that does not cause the damage that has been caused by this incident.

Q162 Stewart Hosie: Given that the FCA are regulators, those first two points, that information could be construed as price sensitive or given the way it is reported it could become price sensitive, did it come as a surprise to the FCA when that was concluded?

Clive Adamson: Yes, it did come as a surprise.

Q163 Stewart Hosie: Given how many old lags there are from the FCA days who have been around the block, should we be slightly shocked that the regulators were surprised information could have become price sensitive?

Clive Adamson: Indeed you could. The only thing I would say to that is my explanation earlier that we have had no such incident before.

Q164 Stewart Hosie: Just one final question on that and it is a question I raised with Simon Davis. There was no provision for a regulator-created episode and the way I asked him, and I will ask you in the same way, it is either the most hideous oversight or it was a bit arrogant to assume that the regulator in and of themselves could not do or say something that caused the markets to move. Again, should we be shocked if the regulator did not think they had the power to do that?

Clive Adamson: I would not put it as a feeling of arrogance because, reflecting on it, I do not think it was a question of arrogance. I think it was a serious mistake.

Q165 Rushanara Ali: Mr Adamson, there seems to have been appropriate awareness of price sensitivity in some parts of the FCA, but this did not seem to make its way to the FCA's scrutiny of the prebriefing. Why do you think that was?

Clive Adamson: As Mr Davis comments, he does recognise that, from his discussions with many people in the FCA, there is a good awareness of price sensitivity. There was not that awareness in respect of a potential piece of thematic work. As I said in answer to one of the earlier questions, I think that is because the working assumption had been that it could not have been price sensitive. We had never experienced that before, even though we do handle a lot of individual firm-specific price-sensitive information.

Q166 Rushanara Ali: Do you feel that is to do with a failure of co-ordination between communications and supervision and other relevant departments with expertise?

Clive Adamson: Not directly, no. I think that particular issue is within supervision. Each area of the organisation should have its own training and its own approach to ensuring that price information is properly handled.

Q167 Rushanara Ali: From the Davis report it seems to be that the communications team was lacking in that training and awareness. Do you feel that would have helped?

Clive Adamson: That is a fair question. The individuals in the communication division are communication specialists. They are not specialists in spotting price-sensitive information and I think one of the things going forward is they will be trained to ensure that at multiple points in the organisation we can catch things like this in future.

Q168 Rushanara Ali: Just a further question. Do you feel that this was a combination of individual failures or does it reflect a wider problem of co-ordination and a wider cultural problem within the FCA? From some of the responses earlier on and the report, there does seem to be a failure of co-ordination and expertise sharing. Would that be a fair comment?

Clive Adamson: This particular event clearly exposed, on the day, a lack of co-ordination and, as I explained earlier, I do not think there is a systemic issue of co-ordination. I think this exposed a particular issue on the day. Perhaps I can explain further. The way culturally the FCA makes decisions is essentially through a formal decision-making process of committees, written reports and so on. That does not work particularly well in a crisis. One of my reflection points for the organisation going forward is I think it has to think very hard about how to make sure that, while formal decisions are taken correctly through committees, in a crisis it needs to act differently. One of the things this exposed in the organisation is in a crisis it does struggle to operate because it is used to a different method of decision-making.

Q169 Rushanara Ali: In your evidence you said to Simon Davis that you were aware at 9.00 am on the 28 March that there was an issue with price sensitivity and you did not immediately attempt to find out from the review team or from Caroline Gardner what *The Telegraph* had been told. Could you allude further to this point? Is this an experience of what the blockages were to dealing with a crisis situation? What would need to happen in future. Given we need to make sure learning happens from mistakes and failure, what would have been done differently and what sort of systems should have been available to you and others to rectify this problem immediately rather than this delay?

Clive Adamson: I will answer that question in two ways, if I may. I would like to say to the Committee that when I realised how serious this situation was at 9.00 am my focus then was on trying to rectify it. As pointed out in the report, I did three things. At 9.17 am I felt that I did alert Mr Wheatley's office. That is in the report and I did alert Mr Wheatley's office through the normal method of elevation that we had at that time, which is through our executive assistants.

At 9.17 am I do believe I elevated that submit to Mr Wheatley's office. By 9.32 am I had asked for a corrective statement to be prepared. I thought that I had asked for that to be issued publicly. I admit that perhaps I could have been clearer, but I thought at 9.32 am there was a statement that was ready. Mr Davis concludes it was inadequate, but I think there was a statement that was ready to be issued publicly. At 10.50 am when I became aware that was not issued, I raised that again, albeit through email, through our normal elevation process. At 12.18 pm I also made clear that I believed a corrective statement should be issued. I accept the criticisms from Mr Davis, but I believed I was taking action and was exercised during the morning.

Q170 Rushanara Ali: Just one final point on this. Given the urgency of the matter that you spotted at just after 9.00 am and it took a few hours to get the wheels in motion, what could be done in future to avoid that sort of delay happening?

Clive Adamson: The absolutely key lesson to be learned is that, unlike our normal decision-making process, which is as I said normally by committee and so on, the appropriate individuals should have been brought together much earlier to analyse the situation and determine what action should be taken. That unfortunately did not happen. I think that is one of the lessons.

Q171 Mr Love: Can I continue this line of questioning in relation to 9.00 am you agreed that this was a very serious incident that occurred? You said the standard practice was to inform Mr Wheatley's office. Did you ensure that they informed Mr Wheatley or was it not incumbent upon you to inform Mr Wheatley directly for such a serious incident?

Clive Adamson: As I said, our normal process of elevation is through what I call our executive assistant process. The reason for that is we have an awful lot of things going on at any one time, so that is the process we have used. I think the organisation needs to think carefully about whether that is adequate and whether in future, for similar very high-impact issues, we do not use that system and there is immediate calling of the appropriate people together. I think that was a mistake.

Q172 Mr Love: You also suggested that at 9.35 am you took some action, which did not transpire but you felt that there was a need for action.

Clive Adamson: Yes.

Q173 Mr Love: Once again, as the day wore on, did that not impact on you the level of seriousness of this and the need for the chief executive to at least be aware of the situation?

Clive Adamson: I agree that he should have been made aware directly.

Q174 Mr Love: Simon Davis has criticised you, among others, for not informing the chief executive. Do you accept that criticism? You are suggesting that the standard practice was to inform his office. Would you accept the criticism with such a serious incident that he should have been involved at an earlier stage?

Clive Adamson: I do accept the criticism, yes.

Q175 Mr Love: Looking back now with some hindsight, I wonder we could agree that this was probably the most serious incident that had occurred up until the present time. It seems extraordinary that the chief executive was not involved. We have had comment about the delay before a proper statement was issued. Would involving the chief executive at an earlier stage have shortened that process and led to a correction in the marketplace?

Clive Adamson: It could have done. I agree on two points. One is that this almost certainly was the most serious incident we have encountered in FCA. One can only speculate what might have happened if we had brought people together early, but it still took until 2.27 pm to get the announcement out and I think we all regret that.

Q176 Mr Love: You talked earlier on about a breakdown in controls. It was not only you and your department that did not inform Mr Wheatley, but Zitah McMillan did not inform Mr Wheatley and David Lawton did not inform Mr Wheatley. It was left to a junior official to take that action. Do you think that was one of the breakdowns in control? How do we ensure that someone at a senior level informs the chief executive when a serious incident occurs?

Clive Adamson: One of the five or six key things that went wrong in this, that the appropriate people, including the chief executive and general counsel, were not brought together early enough. Ensuring that happens in the future is more difficult. I would say I am confident after this event that it would happen, but time will tell.

Q177 Mr Love: I am not sure you can speak for others, but was there any sense that you felt that admitting to your chief executive that something had gone wrong was something you would not wish to do and that was a factor in the delay in getting the message through to the chief executive? Was there any sense that you were reluctant to give the chief executive bad news?

Clive Adamson: No.

Q178 Mr Love: Can I just ask you one final question, which is not related to my questions but to one from a previous member of the Committee? I wonder what changes in the communication strategy of the FCA have occurred as a result of this incident.

Clive Adamson: There have been changes. They have essentially been around tightening controls and I am sure Ms McMillan will explain that in her testimony. We have instituted since the incident much tighter controls over signoff procedures for any significant external communication, which I think is very important.

Q179 Mr Love: You talked earlier on about getting the tone right. Do you think this is a measure that will lead to getting the tone right in communications?

Clive Adamson: Not necessarily. I think one of my reflections going forward is that it is extremely important that the organisation is right going forward. The regulator should not be the story. It is the contents and substance, in my view, that should be the story.

Chair: That is extremely helpful.

Q180 John Thurso: Mr Adamson, I would like to explore a little bit the collective responsibility, particularly of ExCo and the board. You are an executive member of the board, and there are eight non-executives and five executive members.

Clive Adamson: I am sure there are nine now.

John Thurso: Are there? Thank you. The website needs updating. Can you tell me, on the board, how often the main board discuss risks and the risk register?

Clive Adamson: That is done through the RiskCo, which is a subcommittee of the board. In my recollection, the risks are not normally discussed at the full board.

Q181 John Thurso: The board does not have a discussion about risks?

Clive Adamson: No. To be clear, it does get a report from the chairman of the risk committee.

John Thurso: Is it a verbal or written report?

Clive Adamson: It is generally a verbal report.

Q182 John Thurso: There is an opportunity for board members to discuss if they wish to?

Clive Adamson: There is.

John Thurso: Otherwise, he just reports on their deliberations. Do you recall this kind of episode being identified as a risk at any point by the risk committee?

Clive Adamson: No.

Q183 John Thurso: It was an unidentified risk and, therefore, there were no mitigation strategies?

Clive Adamson: To be clear, I think the way we have worked is that the tone and contents of communications and the risks arising from that are embedded in each piece of work, rather than a general risk about tone.

Q184 John Thurso: It seems to me, having sat on one or two boards, that the area of reputational risk is nearly always on the risk register and some people perhaps pay more attention to it than others. I am trying to get at whether the FCA board had attempted to identify reputational risks, which is what comes from poor communications, and thought about any mitigation or whether it had not identified those risks and, therefore, had not thought through what it might do.

Clive Adamson: It did not explicitly identify that as a risk category. I think it assumed that that risk would be considered individual pieces of work. To be clear, the statutory panels report on a monthly basis to the board. The Practitioner Panel's comments about tone did come to the board and were discussed at the board.

Q185 John Thurso: Perhaps we can go back to what happened. You mentioned a couple of times that this had not happened before, so it took everybody by surprise, which is a bit like the Tay Bridge disaster. These things do not happen more than once. They are catastrophic first time off. What I am getting at is what might have been done in the way of prevention, which is of course the primary responsibility of a board to oversee an executive committee that is looking at potential areas and having something in place. Looking at what happened, and obviously with the benefit of hindsight, what do you think collectively ExCo could or should have done? From there we can extrapolate what the board should have done. What should ExCo have been doing to look at this potential and be prepared for it?

> ***Clive Adamson***: Partly with the benefit of hindsight, I think ExCo could have done two things. First, it could have looked in detail at this prebriefing episode of the business plan before it happened, looked at each piece of work that would have been subject to that prebriefing and discussed the risks around that. That is one thing it could have done. The second thing it could have done would be in terms of crisis management. It could have thought more carefully about all the possible incidents that could give rise to a crisis. A third thing is it could perhaps have done more to assure itself that controls around prices and information were adequate across the entire organisation.

Q186 John Thurso: One of the interesting things that came out of your answers previously was that you were talking about 9.17 am, 9.32 am, 10.32 am and 12.08 pm you clearly were seeking to take action, but it was going off into a bit of a vacuum. Is there a lack of what in the navy would be an officer of the watch or in a hotel would be a duty manager, somebody whose job it is, apart from the other things they do, to be point when a crisis develops? Is that something that is lacking in the structure?

> ***Clive Adamson***: It was clearly lacking in this episode. Whether you can draw a general conclusion of whether that is lacking, I am not convinced of that. I think that is a question to be asked and the organisation has to satisfy itself about that.

Q187 John Thurso: Let me put it another way. The fact that there is no method by which people can be brought together quickly when a clear crisis has started to develop is a lack that needs to be remedied.

> ***Clive Adamson:*** Yes, it does.

Q188 John Thurso: If one was looking at something that the ExCo had not done, it was not to have in place a system for dealing with a crisis when it arose.

> ***Clive Adamson***: Correct. I agree with that.

Q189 John Thurso: To what extent is the board lacking in not having found out that such a system existed or did not exist?

> ***Clive Adamson***: I do think one of the issues exposed by this incident is that the board did not have sufficient oversight over the control framework in the organisation.

Q190 John Thurso: A final question, if I may. Do you consider that the criticisms made by Simon Davis of the collective responsibility are adequate and appropriate?

Clive Adamson: Do you mean of ExCo, or the board or both?

John Thurso: There is the collective responsibility that he attributes to ExCo and the collective responsibility that he attributes to the board. Do you think they go far enough?

Clive Adamson: In themselves they are appropriate. It does raise quite difficult issues to think through about the governance of the organisation and who is accountable for what, particularly when put against the other provisions of the new senior managers' regime, which clearly we are in the process of working through. That does need to be thought about very carefully, I think. One of the reflections of mine in relation to this incident is that at least the question should be asked whether the board should have more intensive oversight over the executive.

Q191 John Thurso: That is a very helpful point that you have raised because, of course, if the board of the FCA was under the senior persons regime then presumably the chair of risk and the chair of audit would be in the frame as individuals as much as the board collectively.

Q192 Chair: Do you think they should?

Clive Adamson: Going forward, if I can put it that way, it is clear in my view that the chair of the RiskCo, as we would expect for a regulated firm, should have clear responsibility.

Chair: Individual responsibility?

Clive Adamson: Oversight over all the risks in the organisation, and the chair of AuditCo, as we would expect with a senior manager regime, should have responsibility for ensuring controls in the organisation of work.

Q193 Chair: I am sure you will understand that there is something a bit ironic about a report that has told us, as the Davis report did broadly speaking, that there was a collective failure of very senior management and of the board but that no individual was responsible, which is pretty much what we had in a succession of reports and statements from the industry in the wake of the crisis after 2007/08 and which the FCA to some degree and certainly this Committee and the Banking Commission has gone to great lengths to say is no way to run a railway. You recognise that irony?

Clive Adamson: I completely recognise the irony.

Q194 Chair: If I can just put it like this. If you had been writing the conclusions in the Davis report what would you have said on this point?

Clive Adamson: I would have said that individual members of the executive should take accountability, which he has identified and, from my point of view, I accept. I think assigning collective responsibility to ExCo does not help that much. Assigning collective responsibility to the board as a whole in my view does not help that much. Again, it is difficult to distinguish the incident from the future, but I think the key point is that the chairs of the two committees—and again I am not trying to deflect blame at all—certainly going forward should be clearer about their accountability on the FCA board, as I said we would expect of a regulated firm. Mr Davis perhaps could have made that point.

Q195 Chair: Therefore, there is something in the criticism made, sometimes perhaps for fear of this very powerful institution regulated behind people's hands, that there is one rule for the regulators when it comes to governance and another rule for the firms. Is that something you recognise?

Clive Adamson: It would disturb me if that was the feeling, yes. I think it is very important—

Q196 Chair: On the issue of individual or collective responsibility, I am going round saying we must have much more clarity on individual responsibility in the industry?

Clive Adamson: I think the key question—

Chair: I think you are agreeing with that.

Clive Adamson: I think the key question, which I am sure you will explore, is that, where there is multiple points of failure, which unfortunately there was in this incident, who or what is accountable for that.

Q197 Mike Kane My theme continues the issue of one rule for the regulator and one for ordinary firms out there. In my hypothetical scenario a regulated firm mishandles the release of price-sensitive data. What would the FCA do in that case?

Clive Adamson: There are a number of things we would expect to flow from that. As we have set out in what is called "Market Watch 37", which is a notice to the industry, we would certainly expect an investigation to be done by the institution. That investigation would look at the facts, what happened. It would look at whether controls needed to be improved and it would look at where accountability lies. Then there would obviously be decisions about whether there should be any disciplinary action or not. The regulator, which in this case would be ourselves, might or might not rely upon that report and may or may not start enforcement proceedings.

Q198 Mike Kane Having created the false market in that sense, would that firm not therefore be at risk from legal action from investors?

Clive Adamson: That depends upon the circumstances and I am not a lawyer, so I hesitate to give legal advice about that. That would need to be considered and obviously investors might take action through the courts.

Mike Kane So they could be at risk?

Clive Adamson: They could be.

Q199 Mike Kane But in the FCA's case it is not at risk, is it—

Clive Adamson: I believe it is not.

Mike Kane: —because it has statutory immunity? Therefore, do you think going forward that makes the FCA complacent?

Clive Adamson: I honestly do not think it does. I think it treats its responsibilities extremely seriously. I would be very surprised if either individual members of the executive or the executive or the board felt complacent about that.

Q200 Mike Kane I am trying to think of my A-level philosophy. Was it not Gyges ring where, if it made you invisible, you could get away with doing whatever you want; therefore, the scenario is you can do whatever you want?

Steve Baker: A moral hazard.

Mike Kane: A moral hazard. Thank you.

Steve Baker: It is probably that as well.

Mike Kane: Do you think it is a moral hazard?

Chair: You could always throw moral hazard in. It is a good phrase.

Clive Adamson: It is a theoretical moral hazard, I would agree with that. I think whether it is in practice depends upon the way the executive and the board treats that risk.

Q201 Mike Kane We have touched on it slightly, but do you think the responsibilities of the senior regulators in the FCA need to be more clearly defined? Secondly, if that is or is not the case, how should they be held more accountable for situations that arise like this again?

Clive Adamson: I do think the responsibilities are very clear, so I do not think I would agree with that. In terms of holding either individual members or the organisation accountable, I think there are two levels of accountability. The board is ultimately accountable for what the organisation does and I think both the public and Parliament, through yourselves, need to have confidence that the board will do that.

Chair: Thank you very much indeed for your evidence this morning. It was extremely interesting. We may have to come back to you with one or two points but you have given us a lot to reflect on. We have run on a bit, partly because you have, and I think what we should do now is take a five-minute intermission and then we will resume.

Examination of Witness

Witness: **Zitah McMillan**, Director of Communications and International, Financial Conduct Authority, gave evidence.

Q202 Chair: Thank you very much for coming to give evidence to us this morning, Ms McMillan. I would like to begin by asking you how you got the job. How did you come into this job and what conversations did you have about what your specific role would be? What conversations did you have with Martin Wheatley?

Zitah McMillan: Thank you, Mr Chairman. I was approached by a headhunter. At the time I was Acting Director of Communications at the Department for Work and Pensions and had been in Government for nearly three years. I was approached by a headhunter, who I already knew of, and was asked if I had ever considered working for the FSA. I said, “No”, and then I spent a little bit more time talking to the headhunter. It was not an immediately attractive role to me. I was enjoying working in Government. I thought the work of the Department for Work and Pensions particularly fit what I wanted to achieve in terms of its social responsibility and its public impact, so it was not an immediately persuasive role for me.

I spent more time then thinking about it and particularly went and read the June 2011 approach document and started to understand the change that was required in financial services. As you would expect from a communications professional, I then spent a lot of time analysing what had been said about the FSA and thought, “This will be an incredibly difficult task to launch the FCA out of the embers of the FSA”, and that appealed on a professional, very challenging basis.

Chair: It is a challenge.

Zitah McMillan: Yes. Once I had reconciled myself to being interested, I then went forward through the recruitment process.

Q203 Chair: After your appointment, did you have a discussion about the use of the media as a tool of regulation?

> ***Zitah McMillan***: We had that discussion during the interview process. I was interviewed by Sir Sants and Ms Titcomb initially and then by Mr Wheatley and Ms Cole together and then by Lord Turner. It was a fairly rigorous appointment process and one that you had to be incredibly well prepared for. At all parts in those discussions there were conversations about what the purpose of communications is and how you can use communications. I spent some time working with the Health and Safety Executive, so I was familiar with the now-disbanded body of the interdepartmental Liaison Group on Risk Assurance, which had done some fantastic work around risk and how communications played its part in risk mitigation. I had already worked myself to a place where I believed genuinely, as part of a Government communications team, that communications was part of a tool of policymakers more generally and, in particular, it can be part of a regulatory toolkit.

Q204 Chair: Do you agree with the FCA Practitioner Panel that there was an "inherent danger in the FCA's desire to court headlines to raise the profile of its work" and that, therefore, the events of 28 March were an "unavoidable consequence of the direction of travel" of the media policy of the FCA? I think elsewhere it is described as an accident waiting to happen by one of the panels.

> ***Zitah McMillan***: You will forgive me for disagreeing with them, obviously, as you would expect me to, no doubt.
>
> > **Chair:** The purpose of these hearings is to give people an opportunity to say what they think.
>
> ***Zitah McMillan***: Thank you, I appreciate that. I was very disappointed and surprised to read the April Practitioner Panel board report. I had been in front of the Practitioner Panel three times and I had shared a number of things with them, both in terms of communication strategy and the development of the FCA's tone of voice work, and had not had that direct feedback from them at any point. I asked Mr Wheatley had he had that direct feedback from them and he said he had not either. It was a source of immense regret for me that they had not felt able, for whatever reason and I am sure you will ask them, to share that with me directly. I thought they would have done had they had such significant concerns.
>
> The point around the media and the communications strategy more generally—because, of course, the media is just one part of it, it is not the whole of it—to go back to the purpose of communications and why we need to do either through our own channels, the website, or regulation around our own channels through the media and stakeholders or eventually paid for, of which we do limited amounts, is that we are trying to put forward my understanding of the Government's intention in creating the FCA, which was that the public and politicians alike need to understand and support the purpose of the organisation from the outset. That, as a business objective, allows me as the communications director to

write you a communications objective from there. Everything followed from the intent set out and that was the basis on which I wrote the communications strategy.

Q205 Chair: Did you think it was your strategy and not Martin Wheatley's?

Zitah McMillan: He owns the strategy in a sense because he is the chief executive. I wrote the strategy. I wrote, as all communications professionals do, three versions of a strategy initially, because to have two is a dilemma when you are sharing it with your boss. Three is the way to go.

Q206 Chair: You offer some options?

Zitah McMillan: Yes, you should always have viewpoints on which way you may go. The one that we selected, which was the one I had recommended, was to route everything back to, as Mr Adamson said earlier—

Chair: This was in 2011?

Zitah McMillan: Yes. 2012, sorry, not 2011.

Chair: 2012. I think we might ask for that document.

Zitah McMillan: I am sure you are welcome to have it.

Q207 Chair: I think it is important that I ask this question. Have you just decided to leave or is your departure very directly related to what you saw coming in the Davis report, which presumably you saw the critical parts of prior to publication, or was this a coincidence?

Zitah McMillan: I said when I took the role that I saw it as a three-year post. In very early conversations with Mr Wheatley, which is a slightly odd conversation to have but the FCA is incredible at having those honest discussions around career progression—

Chair: We would just like some frankness here.

Zitah McMillan: I will give you that.

Q208 Chair: Would you still be there if it had not been for the Davis report?

Zitah McMillan: No.

Chair: You would have gone anyway?

Zitah McMillan: I would have gone anyway because, as Mr Adamson said, the iteration of the strategy, while I support some of the philosophical parts of it, I disagreed with elements of it that were personal to me and they would—

Q209 Chair: What were those?

Zitah McMillan: The removal of communications from the executive committee I fundamentally think is the wrong thing to do.

Chair: In other words, what you see as demoting the role of communications in the organisational structure. Is it that?

Zitah McMillan: It is that but it is also you cannot differentiate between the substance of the work and how you might engage the intended recipient with the work. I think it is a mistake to do that. If you leave how you intend to engage with, say, small businesses and consumer credit right to the very end of the process, you will probably not get it right.

Q210 Chair: You are saying that the new strategy is the accident waiting to happen, not the old one?

Zitah McMillan: I would not use those words, Mr Chairman.

Chair: Well, you have just said it is very difficult to get right. Therefore, it is presumably quite easy to get wrong.

Zitah McMillan: I think it is very easy to get engagement with regulated firms wrong. I think you can assume they have a degree of interest and awareness of the regulator's work that they do not have. Consumer credit firms in particular in the last year we have learnt an enormous amount about. We have done a huge amount of communications with those firms to get them ready for regulation and they are not as ready as we would like them to be. We see that as they come through for authorisation, so communications should not be separated.

Q211 Chair: Why do you need to use the press rather than an email to the chief executives of these firms?

Zitah McMillan: We do both. I have more people—

Q212 Chair: The argument put forward for using the media has been, "Well, we need to communicate with a very large number of firms and we cannot maintain a relationship with all of them, many of them very small". I am just posing the question in the modern age: why can you not rely on one of the tools you are already using to communicate with them? I would have thought if you are a relatively small firm sitting somewhere in, let us say, Chichester or a somewhat larger firm in Edinburgh—I am not going to go through all 13 on behalf of my colleagues—you might notice an email winging in from the chief executive of the FCA. In fact, it would probably rise to the top of your in-tray immediately, wouldn't it? Why do you need to talk through the press at all with respect to basic communications?

Zitah McMillan: I go back to what we believe the intent was in the creation of the FCA, that we need both the support of the public and parliamentarians alike, and regulated firms need to understand their responsibilities. Part of the year 2 communication strategy for me was how we enable regulated firms to understand that. If we purely wrote directly to firms, which is one tool we use and we have over 28,000 firms who are signed up for our monthly newsletter, for example, then there is a risk that this Committee potentially might say we were not being open and transparent about our activities. Using the media as a way of communicating as part of that toolkit is a way of enabling both the public and others to hold us to account.

Q213 Mark Garnier: Can I carry on this theme? You came from DWP and you said, and it has been repeated once more but I will say it again, that you see communications as just one more part of the regulatory toolkit. What wisdom did you bring from DWP to the FCA that made you come to that conclusion?

Zitah McMillan: I spent a large amount of time working with the Jobcentre Plus network and looking at how to get jobseekers back into work. Policymakers have a framework, forgive me for a little bit of policy jargon, but the intervention framework that policymakers use, and communications is one of the interventions. You assess how you might best create the change in behaviour that you desire through the implementation of that policy and what the best route to do it is. Is it via sanctions on jobseekers for failing to turn up for interviews? Is it by communicating to them that if they do not this is what will happen? I spent a lot of time with policy colleagues in Government and with operational staff in the Jobcentre Plus network, who mostly know a lot of this stuff instinctively rather than with lots of policymaker jargon wrapped around it. I had a very strong belief that communications used appropriately and in a targeted way with insight based on what will make that change happen can be a very powerful way and often cheaper than a radical policy change.

Q214 Mark Garnier: I think that probably sounds very sensible in DWP, but did you in the DWP ever have any instance where a badly-handled media communication strategy could cause some sort of crisis like this? Was there any example that you could think of where an error of inattention or an error of execution had resulted in a big crisis?

Zitah McMillan: Not in the same way. We had multiple issues that did not play out in the way the media people would like them to. The change to employment support allowance would be one that stands out in my mind in how the various stakeholder groups reacted to the policy change. From a communications perspective, you could see that coming from quite a far distance. I do not think we got it right, so I spent a little time reflecting on that. It is not the same in terms of market sensitivity and how you can move a market.

Q215 Mark Garnier: This is the point I am trying to get to. I am a huge advocate of bringing outside wisdom into any organisation in order to bring best practice from other areas, but clearly whenever anybody goes into one institution they are not that familiar with there are going to be potential conflicts and potential problems. While I am very sympathetic with what you have been describing in terms of the work of the DWP, clearly one of the most important things that could be a problem in the FCA is that what did happen could have happened. What I am wondering is did people like Martin Wheatley or anybody else sit down with you and go through all the potential risks that any media strategy might have in terms of causing problems with markets.

Zitah McMillan: I would not expect the chief executive to train me on that.

Mark Garnier: Or, indeed, anybody else.

Zitah McMillan: I had a very intensive two hours with the head of markets, one of the heads of department, who felt responsible for “Market Watch 21 and 37”, which incidentally I had read as part of my preparation for taking on the role.

Q216 Mark Garnier: Did you understand it?

Zitah McMillan: I did, yes, and I had incredible help, probably more helpful than any formal training you can receive, from someone who is both a practitioner of and a supervisor of the markets and how they work.

Mark Garnier: An intensive two hours?

Zitah McMillan: When I first joined.

Q217 Mark Garnier: What was the ongoing supervision that you had with the media strategy in terms of making sure that you did not infringe any market abuse rules?

Zitah McMillan: There you rely on colleagues that you work with. I would not presume to be or assume to be an expert in how one piece of work may affect a market, and I think it would be a dangerous place to go if I thought I had that level of technical awareness and detail of the markets themselves. You work very closely, as Mr Adamson said, with colleagues in the relevant business area. There should always be a balance between what you think and what your colleagues may think in other parts of the organisation. The checks and balances in the system ought to be sufficient. Sadly, on this occasion they absolutely were not.

Q218 Mark Garnier: Let us say you are bringing out something that could potentially be market sensitive. You would check it with the markets authority? You would ask around and see if they agreed with it or was there a formal process that it went through?

Zitah McMillan: Yes, if it was known to be market sensitive—

Mark Garnier: The key point is how you know it is market sensitive. Who checks the number one check: is it something that is potentially market sensitive?

Zitah McMillan: Is owned by the business owner. The people deciding whether something is or is not market sensitive are the people who are responsible for the work.

Q219 Mark Garnier: Do they go through every press release and every—

Zitah McMillan: Yes, all press releases are signed off. They go through an iterative procedure, if you can call it that, where one of my team writes a press notice. At a working level it comes back and forth, back and forth, as you make sure you get the points of detail right, and then it will go up through the chain of command. It has to be approved by the director responsible and either I will see and approve it as well or one of my communications heads of department will see and approve it.

Q220 Mark Garnier: What is interesting in the discussion with Clive Adamson a bit earlier—I do not know if you saw that—is we were talking about how the Practitioner Panel was quite damning, and we have already heard a little bit from you this morning on this. Coming from that is that clearly there are two sets of interested parties in terms of the communication strategy of the FCA, one of which is the Practitioner Panel, so those people who are the regulated, and the consumer panel, so those people who are the protected, if you like. You have been in the media trade long enough to know that one thing that tends to sell newspapers quicker than anything else is a scare to the community story.

What strikes me from what I have heard this morning is that this started off as something that is quite a useful communication to go out to the practitioners, the insurance companies and that kind of stuff, to show them this stuff is coming on, but the media turned it into a scare to the punter story, and as a result of this it transformed from being one type of useful practitioner story to a market sensitive scare story. That seems to be something that has been completely overlooked, the dynamics between the two types of audiences and the dynamics between how the media can interpret something in a completely different way from that which was intended. Discuss.

Zitah McMillan: If I can use a different example, one that both Clive and I worked on together, the interest-only mortgages and the approach the FCA took to quite a difficult challenge facing people who have interest-only mortgages when they come to the end of their terms. The year 2020 was the point at which we realised many of these people would not be able to repay and a classic approach to that would be to go out and say, “There is an issue. The industry needs to solve it. This is a big problem”. An easy approach, if you like, but for me not the right approach at all. I saw this as very much an opportunity that industry can, as industry wants to do, help rebuild confidence in their activities. This is something Clive and I both very strongly agree on. The approach we took on that was very much industry should lead this supported by some research that we had produced to show that there was a problem in the future and that we should be supportive of industry's approach to that. It still got reported as a crisis waiting to happen. No matter how balanced we are, there is always a risk that it can still be reported in a certain way, but I think we are very cognisant of those risks.

Q221 Mark Garnier: Is it not ultimately counterproductive?

Zitah McMillan: To?

Mark Garnier: To the message you are trying to get out. The message you were trying to get out on this particular occasion was that you recognised there was something that needed to be looked at. You were looking at it. You were approaching it. It was all being done very well, but completely the opposite came out of that particular story. Suddenly people were in absolute panic about their interest-only mortgages and they are unable to pay them off.

Zitah McMillan: People did not necessarily respond in panic and because we had worked—

Mark Garnier: Yes. I use hyperbole in order to seek tomorrow's headlines.

Zitah McMillan: Okay. I will try to avoid that. The way in which we had worked with the Council of Mortgage Lenders and the Building Societies Association and with the firms themselves meant that we were able to mitigate that with clear communications. All of the firms had agreed they would write to their customers directly, set out the scale of what they faced in 2020 and ask if they needed help with their repayment plans. While there was a little moment where I felt it had been reported in a slightly more extravagant way than I would have wanted, because we had worked very closely with industry and the representative bodies we were able to make sure that that was not how it continued to run and that consumers were not adversely affected by it, which was my main concern.

Q222 Mark Garnier: Getting back to this specific case, there was a decision to engage a specific journalist to write a story on what was coming and the thing about the insurance companies. With the benefit of hindsight, would it not have been a better idea to have a very carefully crafted press release to put out to all newspapers and have it on your website so as effectively to manage it? If people do come up with hyperbole and all the rest of it, you can turn around and say, "This is what we are talking about. Let us be absolutely clear. This is the message we want to get out", rather than rely on a journalist, who may be a very trusted journalist but nonetheless will try to sell newspapers.

Zitah McMillan: One of the things I reflected for a long time on in my numerous sleepless nights since the events of 28 March, hindsight is a fantastic thing. Yes, I would agree wholeheartedly that there are ways that would have been far better. The context at the time with regard to the business plan and the discussion that we had had back in October 2013 when we first took the skeleton of the business plan to the executive committee and the communications strategy for year one at the same time was that the business plan was inevitably overlooked by almost everyone, which is quite sad. That is one of the things I was charged with saying, “Well, that cannot happen”, and that firms spent more time thinking about the risk outlook, but still not enough time thinking about the risk outlook. With all the noise that would be in the system around consumer credit with the closure of the OFT, how could we make sure that that did not happen again? I think it was a well-intentioned approach, but, yes, absolutely with the benefit of hindsight, that was not the right way to do it.

Q223 Mark Garnier: Since this crisis and before the Davis report of what came out, have you been satisfied that any changes that have been put in by the FCA are the right changes? Have they done enough? Could they do more?

Zitah McMillan: There are certainly far tighter controls. There are multiple changes, which I can touch on very briefly if that is helpful and Mr Adamson alluded to. We have a very detailed sign-off process that partly goes through myself and the accountable director in the business area. We have a 48-hour prepublication pause so that I can flag any issues to Mr Wheatley as necessary. We give him a monthly view of those that we think he should take more of a personal interest in and that he then does take a personal interest in. We factor that into the timings. I have a system of communications accountable executives whose strategies and plans all need to be approved by both the business and either myself or my nominated deputy. To say we have tightened controls would be an understatement, but to say that I would ever be complacent that there is a risk somewhere in the system, I would never be that complacent.

Q224 Alok Sharma: Ms McMillan, if I can summarise you, I think what you said to the Chairman is that you were not pushed; you have decided to walk.

Zitah McMillan: Yes.

Alok Sharma: When did you decide and when did you communicate that internally and who to within the FCA?

Zitah McMillan: I met with Mr Wheatley on 22 October and he told me of his intention with regard to the structure and what that would mean for my role. I said very clearly at that time it would not be a role that I would continue in and that I would not stay with the FCA. I did not formally hand him a piece of paper at that time, but I clearly communicated to him on 22 October.

Q225 Alok Sharma: You said in an earlier answer to Mr Garnier that you would not expect the CEO to train you on communications or media strategy. Do you think it was your role to give that sort of advice to the executive committee?

Zitah McMillan: Yes.

Q226 Alok Sharma: Why is it, then, when Mr Adamson gave evidence—and forgive me if I have this wrong—but I think he said the ExCo did not discuss that communications could move markets.

Zitah McMillan: He answered the very specific question about: did we have a risk-based discussion about where any material we put into the public domain could move markets? We had not had that specific discussion.

Q227 Alok Sharma: Forgive me, you have a lot of experience. It says in your CV that you have brought to the FCA a robust strategic approach to planning and delivery in communications. You have all sorts of international experience working for big companies. Is it a bit odd that you were not raising this issue with the ExCo, the issue that information can move markets?

Zitah McMillan: I do not think it is odd that I did not raise it. My assumption is that everybody would think that an organisation who is the regulator could move markets. Part of the intention of the regulator is to change the way industry works, so you are always very conscious that you are effecting change. It is not a conversation we had, Mr Adamson is absolutely right, or not when I was at ExCo. We did not have that conversation and I would imagine that a future ExCo certainly will.

Q228 Alok Sharma: That was a failing then?

Zitah McMillan: With hindsight, yes, absolutely.

Q229 Alok Sharma: In response to Mr Garnier, you talked about the process of communication strategy before this event and you have talked about it subsequently. It was not clear to me what specifically has changed. Initially, you talked about all the sign-offs making their way up and all the rest of it. I think you basically said the same thing in terms of the new strategy. Can you tell us specifically what has changed?

Zitah McMillan: Press notices would have always been signed off by the named member of the executive who was quoted in a press notice. To that extent it has not changed, but what has changed is that that process is very much more formal now insofar as you have a set timeline by which all work must be approved. Mr Adamson would reasonably expect to receive any material with a minimum of three days before I would expect to see a final version of it. We are very much more clear on the timeline you have to have, the named individuals that must approve it, and the speed bump that we inserted at the end of the process, which for me of all of it is possibly the most important, that allows us to pause.

Q230 Alok Sharma: Mr Adamson said, "There were multiple breakdowns of control", including, I expect, in communications. Do you think the communications section is being unfairly pilloried, unfairly treated, given that there were multiple breakdowns in controls?

Zitah McMillan: No. Again, as one of my 3 am reflections when I have been trying to work out how this could have happened on my watch, I am accountable for my division. It should not have happened. I am incredibly sorry that it did, but I do not think it is an inappropriate amount of reprobation that is being heaped on our heads. I think it is absolutely right. This should not have happened and I am sad it did.

Q231 Alok Sharma: Since March, have you had any other prebriefings with the press on any other issues?

Zitah McMillan: We have not, but I am aware that one took place today at the Bank of England. No, we have not prebriefed the media specifically. We have done detailed technical briefings. For example, when the FX fine was put out, we sat down with the media immediately after the fine was published and gave them a technical briefing. I think that is absolutely the right thing to do because you do not want things to be misunderstood. You want to give people the opportunity to ask those sorts of questions where they can fairly report it.

Q232 Alok Sharma: Final question. You said that the removal of the communications from ExCo is basically wrong and that is the reason that you are leaving. Are you telling us that the FCA is in a worse place now as a result of this change of strategy than it was previous to the change of strategy?

Zitah McMillan: I hope not. The strategy has not even turned into an operational—

Alok Sharma: No, but you have just said the reason you are leaving is because of the removal of communications from the executive committee.

Zitah McMillan: That is my very firm personal view, which I expressed to Mr Wheatley.

Q233 Alok Sharma: Absolutely. Just to press that point, does that mean that, whenever this strategy comes in place, it will be an inferior strategy to the one that was already in place prior to this incident?

Zitah McMillan: I think it introduces an unnecessary element of a disassociation risk, which means that the systems and controls put in place need to be relooked at. Whatever I put in place post 28 March I would anticipate needs to be reconsidered on the basis of the new strategy. I do not think you could sit back and assume that what I have created is fit for purpose now to match the new strategy. Had I stayed, I would certainly have relooked at them with the new strategy in mind.

Chair: Well, that is a sobering thought that we will take on board.

Q234 Stewart Hosie: You told Simon Davis that you were unaware the FCA was planning to prebrief journalists on the FCA business plan, but if we have understood this correctly, you received a number of emails from junior staff in the communications area about plans to trail part of the business plan in the press. What did you think your staff meant by "trail" if it was not brief or prebrief?

Zitah McMillan: I am grateful for an opportunity to respond to that. In a five and a half hour interview you answer some very difficult and detailed questions. This is one of the questions that, in my representations, I had hoped to have changed. I was fully aware that we were trailing or prebriefing, and people use them differently. The detailed question I had been asked was whether I was aware of the detailed briefing that was being given at that time to this particular journalist, and I had not seen that plan. I answered very honestly, no, I was not aware of the detail of that briefing because I had not seen it. I feel that it was unfortunately worded. I do not believe it reflects exactly what I had said.

Q235 Stewart Hosie: You were aware they were going to prebrief, but you were not aware of the detail of the prebriefing?

Zitah McMillan: Yes. If I may, there is another inconsistency that is one of these minor frustrations that I am sure colleagues feel as well, about the difference of opinion between my team and myself as to what I knew. One of the issues I have had since, where I thought, "How could this have happened?", what I learnt through the process of reading the report but not before, because we obviously went into lockdown immediately the independent investigation was announced, was that the detailed plan had been sent to my office but I had not been given it. Of all the things to find myself irritated and surprised by, that was quite high on my list as well. The fact is I could have known more and I was not given the plan.

Q236 Stewart Hosie: Let us move on, because that is helpful clarification from your point of view. The then head of internal and external relations also said she was not involved in the strategy in relation to publicising the business plan. Notwithstanding you were sent a copy of this but you did not see it, does that mean that the most senior individual involved in the prebriefing plan was somebody called a media manager?

Zitah McMillan: My understanding from having spoken post the report to my officers is that the detailed plan came from the internal and external head of department. I was surprised that she did not feel she had had oversight of it. That was my expectation. Again, that is one of those systems and controls breakdowns that is frustrating because, while I was busy looking left at consumer credit, I had anticipated my deputy would be looking right at this and that clearly was not the case.

Q237 Stewart Hosie: You got sent a plan but you did not see it. It was sent by the head of internal and external relations, but she denies having oversight of it. What are we to make of this?

Zitah McMillan: That that is a fundamental breakdown in a control you would expect to see in a division like mine.

Q238 Stewart Hosie: It would be wrong to characterise it by saying that too much responsibility was left in the hands of relatively junior staff in the sense of the media manager when, as you say, the head of internal and external relations was very well aware of this. Is that correct?

Zitah McMillan: I would not want to put words into the media manager's mouth, but I think that individual would feel that opportunities were there for both his immediate line manager and for myself, as her line manager, to be fully aware of the detail. I think it would be unfair to him to think he had not provided that opportunity.

Q239 Stewart Hosie: This goes back to something the Chairman said earlier about previous correspondence and hearings we have had when no one appears to be at fault or responsible, which is always a bit unfortunate. I am going to change tack. The media manager has said that prebriefings were considered a normal part of his team's media toolkit. I take it you are aware of that and that was standard practice.

Zitah McMillan: It was not standard insofar as it happened all the time, but it was certainly something that could be done and I think in the report Mr Davis gives two examples that we provided.

Stewart Hosie: Let me ask that in a different way. It should, therefore, have been clear to you, notwithstanding what you had been sent or seen or not seen, that there was a very real possibility that prebriefing was a tool in the standard toolkit that could have been used in this circumstance?

Zitah McMillan: Yes, but it would never be used in relation to market-sensitive information.

Stewart Hosie: But it was.

Zitah McMillan: But this information had not been determined to be market sensitive at that point.

Q240 Stewart Hosie: Yes, but it is and it moved the market.

Zitah McMillan: It did, but it had not been categorised. The way in which you communicate market-sensitive information is very clearly written out in both our information classification and regular processes. You would not, under any circumstances, do any form of prebriefing in relation to market-sensitive information.

Q241 Stewart Hosie: Forgive me if I have misunderstood this, but you said earlier that the determinant and ownership of market sensitivity is the business area manager.

Zitah McMillan: Yes.

Q242 Stewart Hosie: They presumably signed off the content of the prebriefing material and the press release, or is there a different rule for prebriefings as opposed to formal press releases?

Zitah McMillan: No. The content and substance, as Mr Davis said in his report, was signed off by the business.

Q243 Stewart Hosie: Where did the breakdown occur in terms of the identification of market sensitivity as opposed to the process of releasing it?

Zitah McMillan: I think Mr Adamson referred, in his evidence, that at the time it was not considered to be market sensitive. Again, this morning he has covered in some detail how you go about deciding it and also whether we would have had an assumption that a thematic review of this nature could be market sensitive.

Q244 Stewart Hosie: I have one final question on this, because you will appreciate this is a confused story. You were a director. There was a head of internal and external. There were then managers and media associates. With this box of tools to be deployed, which had been deployed, which you accept may well have been deployed in the circumstance, would you say that you were completely in control of what were the standard practices of your staff?

Zitah McMillan: I think it would be very hard for me to say that, given the events of 28 March, so no. One of the things that is difficult about the process we have been through is that you cannot go away and find out for yourself the root cause of what has gone wrong. I spent six months effectively in the dark about how this could have happened, because we could not go away and do any independent research for ourselves as to how it could have happened. All you can do in that situation, which is what I did, is fill multiple night-time notepads with all of my processes and systems: where were the known risks; was I being fooled by randomness, as the Taleb book told us back in 2000; how could I have let this happen; and where could it happen again? The frustration of not knowing how it happened caused me to review absolutely everything within my division with a degree of scrutiny that was probably uncomfortable for most of the people who worked for me.

Q245 Mr Love: Can I explore the relationship between the staff in your department and other staff in the FCA? What was your vision of that relationship and how did you communicate that to your staff?

Zitah McMillan: When I joined I very clearly said, having spoken to a number of colleagues, that my division was too hard to do business with. There were too many entry points into the division. It was not an easy process to engage with and that we were there fundamentally to serve the rest of the organisation. Communications as part of your toolkit means that you are there purely to serve the organisation and not to serve your own agenda, and I felt that there was a misunderstanding in some of my division about its purpose. I restructured the division. I made it as I thought fit for the FCA rather than a slightly more haphazard grouping that had come about more organically. I said very clearly, "You ought to be part of the discussions, if there is a specific project programme or whatever the piece of regulatory activity is, so you can contribute to that discussion. Don't come to it at the very end and assume you understand it, because you won't and you will probably give poorer advice because of it". I wanted my division to be very much part and parcel and to be supportive of their colleagues as they developed their work.

Q246 Mr Love: Could I interpret that as there was originally a subservient relationship to other departments and you wanted to make it an equal relationship and involve your staff in decisions taken over press briefings and press releases?

Zitah McMillan: I do not think there would ever have been a subservient relationship and I did not go out to achieve equality. I had not perceived that there was any form of subservience in the way the FSA had operated, but I felt that my division was not contributing well enough to colleagues in their thinking and they were not offering specific communications advice about how best to reach the intended recipients. I felt we could do better.

Q247 Mr Love: How do you respond to the criticisms, implicit and explicit, in the Davis report, for example, "A lot of pressure from Communications to prebrief the story", of a robust, some would say aggressive, relationship from your departmental staff? How do you respond to that?

Zitah McMillan: I was deeply disappointed when I read that. Had you asked me even during the process of the inquiry being carried out, I would not have said that that was the relationship my teams had with their colleagues. You have huge amounts of debate constantly about what is going to happen. There are inevitably five different positions and then you bring in the lawyers and you end up with 12 different ways of doing things. There is, inevitably and well done, a huge amount of discussion that goes on and I think that is for the good. I thought it was absolutely dreadful to read that a team within supervision felt that my team had been aggressive.

Q248 Mr Love: You mentioned in reply to an earlier question about an iterative process of going back and forward from communications to whichever relevant department of the FCA was concerned. Did that not open the possibility that your staff, who had a very single-minded pro-consumer agenda according to the Davis report, would express that in the iterative process and would appear to be overbearing to other departments?

Zitah McMillan: I do not think my division has an overtly pro-consumer agenda. That is consumer not just retail consumer, because defined in the Act "consumer" is quite vague. In my press office I have six press officers, one of whom came from markets, one of whom has worked with enforcement and markets for a very long time, two are more generalist and two have more retail consumer experience. There is certainly not an aggressive, pro-retail consumer agenda within my division.

Q249 Mr Love: Did you ever receive any complaints from other departments, from staff or the heads of departments, about the relationship between your staff and their members of staff in those departments?

Zitah McMillan: No. I have had conversations with colleagues who have said that they have not been getting enough of the individual I have assigned to them. I can think of a recent example with one of Clive's deputies who was frustrated that the person I had assigned on one of her key pieces of work had not had enough time to dedicate to it. You have those sorts of conversations all the time and I think, in a division of my size trying to service an organisation of the FCA's size, it is inevitable you will not be able to meet the needs of absolutely everyone. Another personal reflection and disappointment is that none of my colleagues in supervision, for whom I have an enormous of respect, picked up the phone to me or my deputy or the media manager and said, "We do not think this is right", and I am deeply saddened by that.

Q250 Mr Love: How do you respond to an implicit criticism made in the report that the relationship between communications staff and other staff in the FCA resulted in the obscuring of the importance of accurate, factual communications from the regulator? Do you accept that criticism?

Zitah McMillan: That is one of the ones I find harder to accept, because the communications strategy for this year is called "Truth and Proof". Every communication strategy has some form of title. Last year's was "Proof of Concept", where we were establishing the FCA. This year's is called "Truth and Proof", and it is very much predicated on we talk about both the outcomes we are intending to achieve by the work we are doing—and it is all, as Mr Adamson said, rooted in the substance rather than what we think the narrative should be—and then the proof points, the evidence of what we and the industry are doing. I see what we do is an enabler for the industry to improve. I find that particular criticism far more difficult.

Q251 Mr Love: But it is a widespread criticism from all of the different departments of the FCA that when they informed the communications department of the realities of the particular press release that was being considered, that was pushed aside in the effort to raise the profile of the FCA in the media.

Zitah McMillan: The profile of the FCA was particularly high anyway, so raising the profile is not a personal objective that I have nor is it an objective that I would set for my team. I cannot explain why the challenge was pushed aside. It is something I have thought long and hard about since having the opportunity to read the report and I will not reconcile myself to that, I have to say. That is one of the things I will take away as being both unwelcome and unexpected.

Q252 John Thurso: Do you accept the criticisms in the report that directly relate to you in paragraphs 19.21, 19.22 and 19.23?

Zitah McMillan: Yes.

Q253 John Thurso: Earlier on, in answer to my colleague Mr Hosie, I think—and correct me if I am wrong—you accepted that this whole affair represented a pretty fundamental lack of command and control.

Zitah McMillan: Within this specific instance, yes.

Q254 John Thurso: Do you think that what happened was a risk that should have been identified?

Zitah McMillan: In terms of?

John Thurso: In terms of the consequences. Should anybody within the FCA have been thinking about this as a risk and seeking to mitigate it?

Zitah McMillan: I think the origins of the work were precisely to mitigate the risk that the supervision team had seen, that this could be misinterpreted. With no sense of irony, that was the intent all along.

Q255 John Thurso: I will try to rephrase the question. In your role, what risks are you considered to own in the risk register?

Zitah McMillan: I have multiple risks. The way our risk register works is each division puts risks on for themselves and you are also noted as a mitigant for many risks across the organisation. Communications is noted as a mitigant for a significant number of risks, whether that is direct with firms or with consumers. I have a number of risks that I own, some of which are operational and some are more in practice and in principle.

Q256 John Thurso: If I have understood your answer correctly, in the risk register the communications department is seen as a department that is mitigating risks that have been identified elsewhere?

Zitah McMillan: As well as owning our own risks, yes.

Q257 John Thurso: The risk of price-sensitive information being unwittingly communicated in a manner that destabilises the market, was that a risk that had been identified?

Zitah McMillan: It has not precisely in the terms that you have said.

John Thurso: Had it been broadly identified?

Zitah McMillan: There is a broad identification, but it would not satisfy me to say yes 100% to your question. I do not think it is specific enough. One of the good things that happened—

Q258 John Thurso: If you can't say yes, do you think no would be the better answer?

Zitah McMillan: No. I was trying to recall the exact wording of the risk. I think it is alluded to but not clearly enough.

Q259 John Thurso: It would be right to say that there was some vague reference to the possibility of a risk from communications. What would the mitigation to that be?

Zitah McMillan: I think it was more about misinformation rather than sensitive information and the mitigation to be for absolute clarity and to get your sign-off procedures right. Others could explain this better than I do, but a lot of risk mitigation is in the systems and controls you place on it.

Q260 John Thurso: The ownership of the risk rested with you and the mitigation of it would be in proper controls being in place?

Zitah McMillan: Yes.

Q261 John Thurso: What I want to ask then is about the relationship between individual and collective responsibility. You sat on the executive committee. How were these matters of potential risk discussed on the committee, how often and in what manner?

Zitah McMillan: We took very detailed risk packs from the chief risk officer on a frequent basis and on a quarterly basis we have a deep dive into the substance of the pack and also specific areas the chief risk officer had identified that he and his team had more concern about. They would be prior to the pack going to the risk committee or prior if they were being discussed at the board. There were many opportunities to talk about deep risks in certain sectors and also more generic risks.

Q262 John Thurso: For something that has turned out to be pretty monumental, which has resulted in the non-execs commissioning this report and a huge amount of negative publicity, everything that communications is there not to achieve being achieved, can you explain why this risk was not properly identified?

Zitah McMillan: Mr Adamson referred to this earlier. For the most part, reputational risk, and it reflects the way we work as an organisation, is rooted into the specific piece of work. That way there is an individual owner of the risk who has specific responsibility within their chain of command or within the organisation for enabling mitigation as well. I had spoken to the chief risk officer about a corporate-wide reputational risk to be put on the risk register, which is what we had had at DWP and I know many other government departments have this and it is usually owned by the communications director, so it was a surprise that we did not have one. One of the challenges with that is that you as the central owner do not hold all the levers to mitigate the risk. It worked slightly counter to the way our risk model works.

Q263 John Thurso: Is there anything in respect of the operation of the executive committee that you would like to see done differently that might have helped to either spot this in advance or deal with it faster after the event?

Zitah McMillan: I am not sure it is necessarily for the executive committee. Again, Mr Adamson referenced the governance within the organisation. There was a missed moment where the detail of the plan for this particular incident should have gone to the right committee, which would be the divisional supervision risk committee to my mind, in this instance, so that it could be challenged by a group of its peers. It did not happen and I do not believe that is appropriate. If you are producing work, and communications is purely you producing work to enable others to do their job, it should go through the appropriate governance, and it did not. I do not think the ExCo needs to do that the whole time. If it did, it probably would not be doing the rest of its day job very well, and I think the tiers of governance within the organisation need to be given permission to operate in that way.

Q264 John Thurso: What do you think Simon Davis meant by the collective responsibility, that there was a failure of collective responsibility with regard to the executive committee?

Zitah McMillan: I think the executive committee has to take responsibility and accountability for it because we are the executive and, therefore, ultimately it rests with us.

Q265 John Thurso: Those of us who sat on the Banking Commission listened to a great number of people saying, “Yes, we all take collective responsibility”, and we all had a feeling they did not. They just said, “We are all in it together, so we will accept responsibility”. Part of our work was entirely about saying that is not acceptable and if people take collective responsibility it is because they collectively have individual responsibility, not that they do not collectively have individual responsibility. What I am asking you is: what does collective responsibility of the executive committee mean? Does it mean that individuals collectively have responsibility together or is it just one of those nice governance phrases that does not meant a lot?

Zitah McMillan: I think going forward the ExCo will need to determine which side of that argument they are on, and Mr Adamson gave his view on that. Personally, my role in a regulated firm within the senior persons regime, when that is implemented, will be noted as a senior person with individual responsibilities and accountabilities and that is absolutely right. I am more on the side of the individual is contributing to the collective, because I do not think it would be particularly fair and appropriate to assume that every single member, say the general counsel, should have absolute in-depth knowledge of what the communications team is doing. That may stifle his ability to do his job. Individuals must be responsible.

Q266 Rushanara Ali: Reflecting on some of the things you have been saying about the breakdown of communication within your division as well as across, do you feel there is something fundamentally dysfunctional about the organisation that has inhibited proper internal communication, which has then contributed to this external problem that is the subject of the Davis review? Do you feel that that is at the core of what is going on? The impression I get from what you have said and previous questions is that there is something quite dysfunctional going on in the organisation, particularly in terms of the section that you were responsible for. You mentioned you had not seen one of the reports. Could you reflect on what could be done going forward? Sometimes these external reviews take place but if there is not an acknowledgement of what is going on internally among staff in terms of training, support and proper management of accountability within teams, things can continue to go wrong.

Zitah McMillan: I do not think this individual incident shows a completely dysfunctional division. There are many things that my division is responsible for and this sort of incident had not occurred. We are scrutinised in our work by responsible members of the business but also our strategy and communications to the asset management industry was discussed at length in one of the executive committees. I do not think it shows a fundamental breakdown in general terms, so it is not systemic as the Chairman said earlier. I do think there are specific points that you absolutely have to learn from and should never happen again. You would accept that in the nine months since this incident has occurred we have not sat still for a moment. I certainly know I have not sat still for a moment trying to figure out where else should I improve the discipline, the structure and the control within my division.

Q267 Rushanara Ali: What about other sections? My point is about the relationship between your section and other sections of the organisation.

Zitah McMillan: One of the things that Mr Adamson did and sponsored within the supervision risk committee, which I think one of his directors chairs now rather than he, but he might correct me, is made sure that within the submissions that go to that committee there is a box within it that says “Communications”. It assesses the risk of communications activity and it ought to talk in some detail about the planned activity and what the pros and cons of that activity are. What this has allowed is to make that even more embedded rather than trying to create any further distance.

Q268 Steve Baker: Did you know that *The Telegraph* had a long-running campaign for action over rip-off charges, particularly on pensions and so on?

Zitah McMillan: All media describe themselves as having long-running campaigns on all sorts of things and you realise afterwards they did not. I was not conscious that they had an absolutely long-running campaign, but I know that *The Telegraph,* because of its demographic and readership, would have this as something it would be very interested in.

Q269 Steve Baker: What did you think the narrative was going to be? You mentioned in passing that you decide what you think the narrative should be. What did you think the narrative was going to be when *The Telegraph* was provided with a victory in its long-running campaign?

Zitah McMillan: Having read the briefing notes, which obviously I was only able to read as part of the Maxwellisation process for the report, it was very clear what we were trying to achieve. The slightly euphoric tone of *The Telegraph* article is not something that I would have anticipated, based on the briefing notes that we had written.

Q270 Steve Baker: Do you think that the FCA should expect such euphoric tones if similar announcements are made in future?

Zitah McMillan: I think it is right and proper that the media champion causes they think they are doing on behalf of their own constituents, their readers, and that is something we need to be very mindful of whenever we are deciding the course of action to take.

Q271 Mr Love: In his evidence to us, Mr Davis said that the FCA had some responsibility in *The Telegraph* article that appeared, based on the evidence he had accumulated. How do you respond to that criticism?

Zitah McMillan: I think it is a fair criticism. There were things that happened in the briefing that I think were wrong. Mr Adamson should rightly feel aggrieved that an off-the-record briefing that was not attributable was somehow switched to on record. That is not something I have ever come across before and if you had asked me nine months ago I would have said it absolutely could not have happened, so I was fooled by my own risk procedures there. I think it is a fair criticism.

Chair: Thank you very much for the clear and direct evidence you have given us. I am afraid it is now this afternoon. It has taken a bit longer than we had thought and hoped, but I think we have made some progress.