



Treasury Committee

Oral evidence: Bank of England [Foreign Exchange Market Investigation](#), HC 956

Tuesday 3 March 2015

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Members present: Mr Andrew Tyrie (Chair); Rushanara Ali, Steve Baker, Mark Garnier, John Mann, Jesse Norman, Mr David Ruffley, John Thurso

Questions 114 - 226

Witnesses: **Dr Mark Carney**, Governor of the Bank of England, and **Anthony Habgood**, Chairman of the Court of the Bank of England, gave evidence.

Q114 Chair: Thank you very much for coming to give evidence to us this morning, and for coming again, Mr Habgood. This is the first hearing that we have had of this type in the new era of transparency, with the reordering of the Bank to help secure that transparency and something more akin to a proper board able to perform that function now led by Mr Habgood. Our job is to monitor whether you, on our behalf, are doing what you need to do. We will come on to that in the course of the hearing.

This is the first investigation launched by the Oversight Committee, the non-execs of the Bank, so it is very good news that this is now being done in such a way. We might not have seen this level of transparency in the past, certainly not five years ago. We have now had the first report by Lord Grabiner. Governor, you will have seen the exchanges that took place between this Committee and Lord Grabiner. Four or five colleagues' exchanges were—how should I describe them?—unusual, but, before I add any more adjectives, were you surprised by his tone when he came before us?

Dr Carney: First of all, thank you very much, Chair and members of the Committee, for this hearing. This is an important component of our accountability to Parliament and, through Parliament, the people of the United Kingdom.

Yes, I was surprised. It was not the tone or demeanour that I would have adopted in front of the Committee. I felt the Committee was asking—as always—legitimate questions, probing on issues of fact and judgment. As I said, it was not necessarily the posture that I would have adopted, but I am sure that Lord Grabiner can speak for himself.

Q115 Chair: I will probe that one step further. When you say, “not the posture that I would have adopted,” which bit of the posture would you not have adopted?

Dr Carney: I think it is a question of—

Chair: Why don’t you get to the point, Governor?

Dr Carney: Who am I judge someone else’s tone, in the end?

Q116 Chair: Well, if they are working effectively and your institution has commissioned them, I think—

Dr Carney: Our institution has commissioned Lord Grabiner and he has produced, in our judgment, a thorough, comprehensive, hard-hitting report.

Q117 Chair: I was just talking about the tone of the exchange.

Dr Carney: I understand. As I say, it was neither the tone nor the demeanour that I would have adopted.

Q118 Chair: Do you think, on the evidence he has published, that we have enough information to draw the conclusions that he drew, or do you think it has been helpful that this Committee has been eliciting further information from Lord Grabiner?

Dr Carney: Well, I repeat the second part: it has been absolutely helpful that the Committee has probed both in hearings with Lord Grabiner and through the exchange of letters with individual members of the Committee, and—I am certain—through this hearing to get to the heart of the matter and to understand issues of nuance and substance.

In my judgment, the original Grabiner report was thorough and comprehensive. He had access to millions of documents and to everyone in the Bank of England. He had close co-operation with the FCA and he formed his judgments and conclusions, including, very importantly, recommendations—I hope we will be able to come on to this—about changes to policies and procedures of the Bank of England on which we have acted and are acting. But I felt that the exchanges of the Committee brought out important issues around the boundaries in the foreign exchange market of what is acceptable and not acceptable activity, and what people in the market thought was acceptable activity, which, in fact, was unacceptable. I am referring to activities that are far away from the legal standard of criminal activity—so, into activities that would be, in my judgment, in violation of the NIPs code and would warrant further investigation and coverage.

To some extent, I feel that the both the report and the exchanges have not only shed light on practices in the foreign exchange market, but got to the heart of the matter on which Lord Grabiner was instructed, which was whether any individual in the Bank of

England was actively involved in any illicit activity. The answer is no. On whether they were aware of any illicit activity, the answer, in his judgment, is no. But importantly, in terms of reference, he was also asked whether any individual at the Bank of England was aware of the possibility of activities that could lead to such activity, and in that respect, he made a judgment that a member of bank staff should be subject to serious criticism. He made that criticism and that is a matter of public record.

Finally, just to repeat, very importantly for us as members of Court, he made a series of recommendations for changes in policies and procedures in the Bank on which we have acted.

Q119 Chair: I just want to open up one issue that I might come back to towards the end of the hearing. Lord Grabiner originally told us all in written form, “It is not my task to decide whether the forex market ought to be regulated”, but when he came before us, he offered us a very explicit view on the subject. I will not read the transcript, but it is pretty blunt. Do you think Lord Grabiner has the expertise to be able to make such a judgment?

Dr Carney: The issues around where the regulatory perimeter should be in the spot foreign exchange market are complex. As you know, we are in the process, with the fair and effective markets review, of soliciting opinion from a wide range of individuals—from market participants, external observers, and legal and public sector bodies, both here and abroad—in order to form judgments about where that regulatory perimeter should be. Lord Grabiner, in response to questioning about potential regulation, is certainly entitled to his opinion. He has experience in a range of markets, including, importantly, commodity markets. Other markets that are subject to market abuse—

Q120 Chair: Everyone is entitled to their opinion; I am asking whether he has the expertise.

Dr Carney: I believe Lord Grabiner has relevant expertise in other markets that are subject to tighter regulation than the spot foreign exchange market. In that regard, I take his comments with interest, but I would say that we are canvassing opinion widely on where that perimeter should be, and this should be a subject of robust discussion for this Committee in future.

Q121 John Mann: The Committee was a bit taken aback that Lord Grabiner had not listened to any of the transcripts included in his report. Did you find that surprising?

Dr Carney: I am not a barrister and have not conducted these inquiries, but recognising the breadth and scope of what was reviewed—6,000-plus phone calls and a series of interviews with all members of the Bank’s staff and participants more broadly—there have to be some economies of time. I have listened to the relevant transcripts, if that

is of interest, but of course I did so by the nature of their having been reviewed, selected and profiled by those conducting the review.

Q122 John Mann: Mr Habgood, you have described this as a “thorough investigation”, so does it surprise you?

Anthony Habgood: My understanding is that those phone calls that Lord Grabiner himself did not listen to were listened to by two partners of Travers Smith, and my understanding is that they told Lord Grabiner where they thought it was worth his while listening to them, as opposed to accepting the transcript.

Q123 John Mann: That is fairly fundamental, considering the number of hours he says he spent personally on this. It seems, shall we say, puzzling?

Anthony Habgood: They were reviewing 6,500 phone calls, I think. It is a fair few.

Q124 John Mann: The Committee would not have presumed that he would have listened to all of them. If the Governor, who is a very busy man, chooses to listen to selected highlights, would Lord Grabiner not be doing so within the number of hours which he spent on this report?

Anthony Habgood: I have also listened to some of them, albeit after this issue was raised here.

Q125 John Mann: You described it as a thorough investigation with clear findings.

Anthony Habgood: Yes.

Q126 John Mann: Isn't there a fundamental concern still that the culture within the Bank was such that something was known to be going wrong in May 2008, but it was not escalated; and that culture and that lack of coherence in reporting structures is very internalised? How convinced should the outside world be? It all sounds very good: everything is getting sorted. We have heard that many times before in this sector. Why should we be convinced this time that it is getting sorted?

Anthony Habgood: Coming in as a new Chair, obviously I very much welcomed the report, for two reasons. One is that it address two issues straight down the line. One is the fundamental integrity of the Bank in terms of whether it was actually engaging in any of these malpractices; but also, and in many ways more important, it goes right into the heart of the culture—of what parts of the Bank need to be more professionalised. The Governor, who came in a year or so before me, had started a process of professionalisation of many

of these things. I very much welcomed this report, because it takes many of those areas and gives them a huge boost. There is a big need to professionalise quite a bit.

Q127 John Mann: But it is also about how, isn't it? I recall the days of the Governor's eyebrows. This concept of a nod and a wink seems to be really deep-rooted in the culture of the Bank. That is why I was surprised that Grabiner was not listening personally to those transcripts, which is an important aside. Of course, criminality in the Bank would naturally be a fundamental issue, but oversight that allows criminality elsewhere is equally a problem—this nod-and-a-wink culture of how the Bank has done its business. Are you, in your position, going to be sorting that out, and is this report sufficient in this area?

Anthony Habgood: As I said, this report was particularly welcome in that it addressed those cultural issues. It said, "You have really got to get into these," and the Bank reacted immediately or progressively to those. We have, coming to the audit and risk committee and to Court progressively, various parts of that: escalation policy, attestation policy, the code of conduct and so on. We are going through, trying to professionalise the different functions.

Q128 John Mann: Governor, you want to come in, but I will just throw in an extra question for you. Is the Court up to it? Are the individuals good enough? Some people would say, "We need more insiders." Do we actually need more insiders? Do we need more outsiders?

Dr Carney: Let me answer your second question, if I may come back to amplify what the Chair has just said. Absolutely, the Court is up to it. To me, what distinguishes the Court is that you have a series of executives who have experience with proper control environments, proper challenge of management, professional board structures. The man to my right has been chair of two major British companies; he has given up one to be Chair of Court. That degree of professionalism that gets to the heart of issues is an effective challenge function for senior management, including myself, and it cascades down the organisation. It reinforces the things we are trying to do. As the Chair of Court has just referenced, a series of policies have been in place.

To answer your first question about what has changed and how we know the culture has changed, I will provide two points of context. We put in place an attestation policy and an escalation policy about a year ago. We updated the escalation policy. We asked individuals throughout our markets area to attest whether or not they had been aware of any past instance that would rise to the standard that we are discussing today—any past instance of the possibility of market abuse, let alone the fact of market abuse. The combination of those two in the past year means that we have received 50 escalations from those individuals; we have referred 40 of those over to the FCA, and the FCA is investigating as appropriate. So there is a change in the culture. What you do not want, and are rightly challenging, is that we have a one-shot event and people move on and the old culture reasserts.

How do we professionalise? We professionalise by having formal policies on escalation, by being clear about what we expect from our individuals who are going out and getting market intelligence. They are crucial for us to do policy properly. I know there was an exchange in the previous session about how we can still be effective in this new professional world of market intelligence. We have given more resources and greater clarity about what those individuals have to do, because they are essential for us to work effectively.

We have changed, reinforced our document retention and document and records management, so that when we have meetings in broad settings there is a record of those meetings; there are always minutes and people know what is expected of them. I will finish this point and then come back. Then what you have to do and what a professional Court does, is challenge. “Okay, it’s great that you have clear lines of authority, as you should and we do have. You have the right policies in place and are training people, but what are doing for a control and compliance environment in order to check that that is the case?” We owe it to you as the Treasury Committee, Parliament and the people of the UK, as well as to our employees who are dedicated public servants, to support them in doing a crucially important job, to give them the protections they need in order to go out and get the market intelligence that will make us better policy makers.

Q129 John Mann: My final question is about the context, not the detail. I am not interested in the detail—it would be inappropriate to know the detail—but in the context of the nod and the wink and the eyebrows to employees. Mr Mallett went at a convenient time. The outside world will immediately draw conclusions from that. Perhaps more significantly, the inside world will draw conclusions from that. It is something I have seen in different industries time and time again. How badly do you think that that was handled in terms of the timing? Everyone presumes that there is a convenient coincidence in it, inevitably, and must do internally, so looking back, was that the right way of handling that?

Dr Carney: The timing was necessitated by events; I want to be clear about that. Through the Grabiner process—this review of millions of e-mails, electronic chats and phone records—we discovered a series of misjudgments that Mr Mallett had made, unrelated to the Grabiner inquiry. Now, there were misjudgments around the Grabiner inquiry, but I will set those aside. There were other misjudgments that he had made, unrelated to that, and there are at least 20 examples of this: violations of the Bank’s IT policy; violations of our confidentiality policies on multiple occasions; sharing, on one occasion, a confidential bank document—it did not have external information—to market participants; venturing personal opinions about potential Bank policy. He would not have been privy to the stance of Bank policy, but those personal opinions could have been misjudged by market participants. There were examples of use of inappropriate language on multiple occasions, inappropriate attachments to e-mails and so on—issues that, in the public domain, could have brought the Bank’s reputation into disrepute. That was discovered through this process.

The timing is determined by the need to have a proper independent disciplinary procedure. That is determined by Mr Mallett, to his credit, wanting to complete the inquiries of Lord Grabiner—so, discharging that. Then there is a disciplinary procedure,

which is independent and run by our executive director of human resources. She comes to a determination that there are grounds for dismissal on the basis of serious misconduct for those issues—multiple issues. As soon as she comes to that decision, which is at the end of October, we have to act. So we act on the basis of that.

It is disappointing. This is an employee who, in other respects, had served the Bank well and had served his community well in terms of charity, but with a senior officer of the Bank and with multiple misjudgments, when you have those facts in front of you, you have to act. There has to be due process, and we followed due process. It was there, and we acted.

Q130 John Mann: We can be sure, can we, that there are no other senior employees of the Bank who have made similar misjudgments? Are you confident that there are no others? Have you looked at the failings in the systems that led to those things being undiscovered before, and whether they have been happening elsewhere in the Bank?

Dr Carney: We have outstanding colleagues at the Bank of England, who are dedicated public servants. We hold them to very high standards, and they recognise that they are held to those standards; that is why they are at the Bank of England. I have every confidence in our employees. On occasion, from time to time, somebody will err. If there is a series of errors, we have to act on those. We do not spy on our employees and we do not monitor our employees, but we expect those standards to be adhered to. Through better policies, including the policies that the Chair of Court has referenced, and actually implementing those, living those, having the training and having the right culture, we will minimise those instances and uphold the integrity of the institution.

Q131 John Thurso: May I apologise to you in advance for the fact that I am going to have to leave shortly after I have asked my questions? I apologise for that; I have an unavoidable diary clash. Governor, can I come to you first? The Oversight Committee initially announced on 5 March that it would be leading the investigation and that Travers Smith would prepare a report. A week later, on 12 March, it announced that Lord Grabiner would lead the investigation and prepare the report. Can I ask why that decision was made, first of all, and why it was changed in the course of the week?

Dr Carney: I will answer that, recognising that I am not a member of the Oversight Committee and was not at the time. That is the first part of the answer: that Travers Smith had been retained by the governors—by senior management. When we had the first suspicion of the possibility that there was any connection between the Bank and the forex investigation—we received an inquiry from someone in the private sector—we acted on it immediately and that day decided to launch an independent investigation. Within 48 hours we instructed Travers Smith¹, who started the comprehensive review of e-mails, phone calls and so on. We got to the position that there were grounds for deeper investigation, when there was some indication that there was potential involvement—I will be clear on that; when the O’Riordan call was discovered, which is referenced in the Grabiner

¹ *Note by witness:* should say “launched the process that led to Travers Smith being instructed”

report—and the Oversight Committee quite properly decided that, as the independent directors, they needed to manage the process. In doing so they had their own independent counsel brought in; they chose Lord Grabiner, which took a week.

Q132 John Thurso: Could this be viewed as an escalation as a direct result of new information?

Dr Carney: Without question there was an escalation as a result of the new information.

Q133 John Thurso: What was Travers Smith's view of that? Were they advising that this was something that should be done—were they involved in any advice on that?

Dr Carney: To be candid, this was handled through our general counsel and the then Chair of Court, Sir David Lees. Travers Smith has performed admirably on this file and has worked tirelessly. On our behalf the lawyers turned over literally millions of stones and pebbles. Without that work we would not have discovered what we did.

John Thurso: My questions are just to understand the process.

Dr Carney: All the information around the Bank comes from the Bank. It is from our records, our phone logs, our e-mails, our pulling back from the chatrooms.

Q134 John Thurso: Mr Habgood, I am of course fully aware that you were not in post at the time. What you may have found out since is what I am going for. Why was Lord Grabiner, in particular, chosen for the appointment?

Anthony Habgood: I do not know that, but he is a very eminent QC who has had a lot of experience of independent inquiries. He is a robust—dare I say feisty?—individual—

John Thurso: I think we noticed that.

Anthony Habgood: Yes. He was well-qualified from the work he has done before to do that.

Q135 John Thurso: What I would really like to find out is whether there was any competition, whether other candidates were considered and, if other candidates were considered, what the criteria for selection were, or whether, given the timeframe, the Oversight Committee simply went to him because of his reputation.

Anthony Habgood: My understanding is that the general counsel looked at a number of candidates and thought that Lord Grabiner was the best qualified to do it and, importantly, could do it and start then.

Q136 John Thurso: So this was the Bank's internal counsel, or Travers Smith?

Anthony Habgood: Yes. Again, I wasn't there, but my understanding is that it was the Bank's internal counsel.

Q137 John Thurso: I quite understand the need to act quickly. That is absolutely proper and sometimes a fast, good judgment trumps a process; that is understood. However, given that this was a semi-public appointment, would you not have expected some sort of process around the selection of candidate, or do you feel comfortable that a recommendation from the Bank's counsel was sufficient?

Anthony Habgood: It depends on the circumstances and the pressures at the time. As you say, potentially it is a trade-off between time and process. It would not be unusual to decide that a certain QC was the right person to do this and to move ahead with it.

John Thurso: Thank you very much.

Q138 Mr Ruffley: The terms of reference for the external investigation were published at the same time as the press release announcing Grabiner's appointment. How was the scope of that investigation arrived at? Take us through the process of the drafting of the terms of reference.

Anthony Habgood: Again, I was not there at the time but my reading of it is that it was a very comprehensive study. It was intended to provide Lord Grabiner with all the resources and all the data sources of the Bank and to give him scope to come to recommendations about any malfeasance in the Bank, any knowledge of malfeasance in the market, and whether or not it could be investigated. Indeed, his recommendations address those very points. I think that he interpreted whatever the exact terms of reference were very broadly. I viewed it as a very comprehensive investigation.

Q139 Mr Ruffley: They were decided after the internal review—the initial review that Travers Smith did, is that right?

Anthony Habgood: That review was ongoing—I do not think there was a stop and then a start, because Travers Smith then continued to work with Lord Grabiner over the next six months.

Dr Carney: I agree with the Chair's characterisation. I add for clarity that I was not in the room when these were struck, nor did I participate in the striking of the terms of reference, but as I said to Mr Thurso, the discovery of some troubling issues through the Travers Smith process raised the stakes.

Mr Ruffley: We know that the terms of reference exist, but I am much more interested in trying to probe why they were drawn in the way they were. It seems that neither of you can answer that.

Dr Carney: I can answer that—

Mr Ruffley: There is an argument, we will get to it in a minute, that the terms of reference are unduly narrow. It is an argument that we will tease out but I would like either one of you, but starting with you, Governor, to explain who did the first draft of the terms of reference. Where did it come from? Was it on the basis of a draft from Travers Smith? How was it arrived at in the way that it was?

Dr Carney: The direct answer is that I do not know who did the first draft and how it went back and forth. The clear starting point for the terms of reference was whether anyone was involved in actual or potential manipulation, and secondly, whether they were aware of any actual manipulation in the market, but the standard does not stop there. We have higher standards. The standard is: was anyone at the Bank aware “of the potential” for such manipulation? That is a very high bar—awareness of the possibility, not awareness of the fact; awareness of certain behaviours, market practices or instances that could then be used for manipulation and of course collusion. The next point is whether there was any facilitation of sharing of confidential client information, or awareness that such information was being shared between participants—is a very important point, which goes to the NIPs code, an awareness and appreciation of the NIPs code, in my view. Again, that is a much higher standard than the legal standard. These are questions of codes and standards, against which we should be judged. That is not a low bar. It is a higher bar.

Additionally, at the time the terms of reference were originally struck and made a matter of public record, it was observed that the Oversight Committee “may request”—I emphasise: may request—recommendations to improve processes and procedures within the Bank. That was quickly amended, certainly by the time the Chair—he can speak for himself—began observing this, to “will request” recommendations. That goes to the heart of how we are managed and how we can change that management. I make one last point: those terms of reference have been in the public domain since March last year.

Q140 Mr Ruffley: You have talked a lot about professional standards. There is nothing explicit in the terms of reference as to whether or not there has been a breach of the professional standard of conduct that you might expect from an employee of the central bank, is that correct?

Dr Carney: The judgments on the awareness of the potential and the absence of escalation are judgments about whether or not the individual breached the professional standards of the Bank of England. The judgments made by Lord Grabiner rise to that standard.

Mr Ruffley: But you are aware—

Dr Carney: You may not see that actual term employed, but in the end, it is the difference between a profession that is defined—I will perhaps ask you what you mean by profession.

Q141 Mr Ruffley: I was going to offer a definition and see whether you agree with it. This is Lord Hoffmann's definition in the McCandless case in 1996: "the public has higher expectations of doctors and members of other self-governing professions. Their governing bodies are under a corresponding duty to protect the public against the genially incompetent as well as the deliberate wrongdoers." Would you include Bank members, either employees or those on the Oversight Committee, as members of a self-governing profession?

Dr Carney: I would accept that definition. I am not going to argue with Lord Hoffmann any way; that is the standard. The judgment here is about consistency not just with the letter of Bank policies at the time but with what is expected of our senior managers. The criticism of one of our senior managers is not that he did anything wrong, or that he was aware of wrongdoing—there is no evidence of that—but that he was aware of the potential for wrongdoing and he did not escalate it. That is holding that individual, Mr Mallett, to a professional standard, which has consequences; it has consequences in terms of public criticism, which is being repeated today.

Q142 Mr Ruffley: That is helpful. Would you say that there has not been a thorough investigation and judgment on the facts of where the supervision of Mr Mallett by his superiors went wrong?

Dr Carney: No, I would not. The failing of Mr Mallett, and the challenge in the failing of Mr Mallett, is non-escalation: despite the fact that he is in close proximity to his immediate supervisor, he does not share this information. How do we know that? We know that through reviews of e-mail records, chatrooms and phone records, and we know it from the testimony of Mr Mallett himself. He did not escalate these issues to his immediate superior. That goes a bit to the question of supervision. You don't know what you don't know, so it goes to the questions that Mr Mann asked earlier about how we were organised in the Bank, how clear the expectations were in terms of escalation and what market intelligence is and is not for, and what the responsibilities were in these circumstances of other employees who might be aware of these possibilities and attestation policy—I am speaking specifically of that. We have to make sure that we train properly.

My point is that, through this process and through our discussions with Lord Grabiner in terms of his findings and recommendations, he did not just reinforce some things that we were doing any way. An example of reinforcement would be our document management policy or taking proper minutes of meetings: all those things are absolutely necessary, and you should expect that they will be done properly. He reinforced those, but he catalysed other changes, so there is a shared understanding of what those responsibilities are and what that high standard is and should be. We are giving resources to the excellent professionals in the Bank of England who conduct market intelligence. That is a difficult job—a vital job for us, but a difficult job to get right—and we are providing the resources and the necessary training to do that. My point is that the process and findings of this report did not just reinforce certain policies that we were doing; it catalysed the type of action that changes the culture. In the words of the Chair of Court,

with whom I agree, it professionalises the culture and makes it more effective and more professional, which I hope provides greater comfort to this Committee.

Q143 Mr Ruffley: I have just two more questions for you, Governor. Did you have an opportunity to comment on the drafting of the terms of reference?

Dr Carney: Of the terms of reference? No, I did not.

Q144 Mr Ruffley: So you did not suggest any changes? It was wholly a Court exercise with their advisers.

Dr Carney: To be clear, it was an exercise of the Oversight Committee of Court, which is the independent directors.

Q145 Mr Ruffley: The Oversight Committee of Court, appropriately advised, but you did not have any input.

Dr Carney: I am not an adviser to the Oversight Committee.

Q146 Mr Ruffley: Mr Habgood, how did you and your predecessor respond to the fact that the internal review by the Bank's legal counsel gathered all the information for the external review? Do you think that that made the external review perhaps less independent than it could have been?

Anthony Habgood: That was a choice made between the Oversight Committee and Lord Grabiner. They had already gathered a lot of information and it was expedient to continue to do that. It would be an extraordinary breach of professional standards if Travers Smith were not able to do that work for Lord Grabiner in an independent way co. It would not occur to me that it would be necessary to change the firm of solicitors.

Q147 Mr Ruffley: You think that it would have been a breach of their legal duty if they had been influenced at all. I can understand that but, unwittingly, do you not think that there could have been a conflict of interest?

Anthony Habgood: I would have to struggle very hard to understand why there would be a conflict of interest.

Q148 Mr Ruffley: I think a lot of commentators have said—this is not a new insight—that you had Travers Smith acting all the way through, and of course there is no suggestion at all that Travers Smith did anything, wittingly, in an improper way, not at all, but would it not have been better to have external lawyers advising the external review, lawyers who were not Travers Smith?

Anthony Habgood: My reaction to that, as a commercial being, is that that would be a strange use of resources. I mean, you have a group of people who have done a lot of work in the area, gathered a lot of data, and uncovered some things that have caused greater concern in the organisation, so an independent is brought in over the top. I do not think that it would be necessary to change the firm of solicitors doing that any more than I think that it would be necessary to change the internal counsel as a result of that, for example.

Q149 Mr Ruffley: Understood. Dr Carney, do you wish to comment on that?

Dr Carney: No. I fully subscribe to what was just said. A substantial discovery process had already been conducted by Travers Smith. Changing to a new firm would have replicated that element of the discovery process. Now, the discovery process obviously extended much further on—

Q150 Mr Ruffley: You say replicated, but it might have found different things with a fresh pair of eyes.

Dr Carney: The discovery process continued. All the relevant records—1.8 million—were reviewed from that period: all the phone calls, e-mails and chatrooms. All the individuals were interviewed: the Bank and members of the chief dealers' sub-group. They were interviewed with the benefit of an independent counsel reporting to the Oversight Committee—a counsel who has been a judge and an arbitrator, has conducted independent inquiries, is a forceful personality and is very effective at extracting information.

Mr Ruffley: Understood. Thank you.

Q151 Chair: I just want to clarify one point, which is about the scope of the terms of reference. You said, pregnantly, that these were published as early as March and that therefore if people had views about them, by implication they should have expressed them. I think that is what that reference to March was, but you can correct me if I am wrong, Governor. Of course, we did see Lord Grabiner in private session. After that, we responded and there was an exchange of letters between the Committee and Mr Habgood's

predecessor, which I am sure you have seen. Perhaps these questions are best addressed to Mr Habgood. You have seen that exchange of letters as well, have you?

Anthony Habgood: Yes.

Q152 Chair: It is just worth reading out what was said. I do not want to read our whole letter, but a key point that came out of that private session for this Committee was this: “It is essential that Lord Grabiner’s inquiry is seen to be, and is, wholly independent. Can you confirm that he may investigate whatever he sees fit and that he may be free to make any recommendations or comments arising from the investigation that he sees fit?” Your predecessor replied that his terms of reference—I am paraphrasing—explicitly provided for him to see whatever he saw fit and to make any recommendations he chose. Was that communicated to Lord Grabiner? Was he made aware that he had that free rein?

Anthony Habgood: Absolutely. I have to say that, as the incoming Chair of Court, I would have been horrified if I had felt that this investigation was not totally comprehensive. My interest in this whole thing would be to get to the bottom of it, not to have some sort of partial investigation; there is nothing in that at all. Reading through all this stuff, it never occurred to me that the terms of reference might be considered too restrictive ex post. It just didn’t occur to me at the time, and I don’t think it would have occurred to Lord Grabiner that he was in any way restricted from doing as thorough an investigation as he could.

Q153 Chair: You are confident about that? The only reason I ask is that these clearly are your terms of reference—the Bank’s and, within the Bank, the Oversight Committee’s. We can make suggestions until we are blue in the face, but at the end of the day you will decide what the terms of reference contain, so it is extremely important that your understanding and Lord Grabiner’s understanding of them should have been the same.

Anthony Habgood: You will, I am sure, if you wish, ask Lord Grabiner what his understanding was, but my understanding was that they were fully comprehensive, and my understanding of his understanding was the same.

Q154 Chair: Yes, but my question is, did you, in your post, when you took this up in July, check that? Did you say, “Make sure Grabiner understands he has free rein”?

Anthony Habgood: I can’t promise that I did that. I was fully under the impression that he did, and I was fully confident that he was under that impression.

Q155 Chair: Has he seen this exchange?

Anthony Habgood: It was before my time. It was April.

Dr Carney: Assuredly, if the Chair of Court, in relation to the inquiry—

Q156 Chair: If he has not, or if there is a scintilla of doubt about the points I have made, I would be grateful if you could come back to us. I don't think we need to linger on this, unless you really have an important point to make.

Dr Carney: I would like to go on record on this. Having participated at the invitation of the incoming Chair of Court in some of the Oversight Committee meetings with Lord Grabiner, in my opinion, Lord Grabiner was under no illusion: he clearly felt he had free rein to investigate absolutely anything he needed to, and he had unlimited resources to do this.

Chair: We will come to resources later. Lord Grabiner will no doubt be hearing this, unless he is very busy with another highly paid case. In any case, you can chase this up afterwards.

Q157 Mark Garnier: Governor, can I go back to the issue of the information flow within the Bank and what effect this whole investigation has had on the information flow into the Bank, in terms of the Bank fulfilling its functions with the FPC and the MPC? First, on the information flow within the Bank, we have heard some helpful and useful information from both of you about what Mr Mallett failed to do, but one or two slightly contradictory bits of information have come to us, and I want to tease them out.

Lord Grabiner's investigation highlights a couple of occasions when Mr Mallett sent e-mails to senior Bank officials with concerns about foreign exchange fixing. One was sent to Michael Cross, who was the head of the FX division and Mr Mallett's line manager. It included what he referred to as a list of "keeping awake at night risks", which also included fixes. What we do not seem to have, though, is any evidence that Mr Cross then came back to ask Mr Mallett what he meant by that. There did not seem to be a two-way flow of information. Would you like to comment on that in terms of what you said earlier?

Dr Carney: Lord Grabiner, as you may be aware, chased this down and interviewed Mr Cross, Mr Mallett and Mr O'Connor in relation to this.. As you are no doubt aware, Mr Garnier, the context is that Mr Cross wanted some context for a speech he was making later that week. What are some of the issues in the foreign exchange market? We regularly use the phrase, "What keeps you up at night?" to mean what are you worried about. Our job is to worry about things.

From memory, four issues were listed. Issues around fixes are No. 3. There is no further amplification of or follow-up on that issue, to my understanding. There have been issues around fixes for a number of years that are distinct from the very important topics we are talking about today, which is just that the fix is a concentrated period where there can be a lot of volatility. There have been issues in the past in terms of, not market makers, but some buy-side activity. Concerns were expressed back in 2006 about "speculative trading" around the fix, which is effectively trying to move the fix because of the knowledge of the position that the banks would be in, given the positions that they were holding. It is perfectly legitimate market activity. It does not make life easy if you are a

bank, but there have been issues around fixes for some time. There have also been historical issues, as you know, around the calculation of the 4 pm fix. So there are a variety of reasons why Mr Cross would have received that and viewed it as, in some respects, a perennial issue. Lord Grabiner interviewed Mr Mallett on two occasions, and these issues were put to him. Mr Mallett did not raise or escalate his developing concerns about the real issues, if you will, around fixes—the issues with which we are most concerned.

Q158 Mark Garnier: One interesting thing about this is, I understand, that there has in the past been no formal counting of the number of times Mr Mallett had raised issues with senior managers. There has been no official record, as such.

Dr Carney: This is one of the issues with issues. For example, the meetings of the chief dealers' sub-group were, relative to our standards, poorly minuted. That is a failing that, quite frankly, should have been chased up. They were not provided on a regular basis, even to the senior committee of that sub-group—the FX joint steering committee. The record of raising issues or escalating concerns is, not surprisingly given the findings of the report, *de minimis*.

In fact, where there were meetings that discussed the serious issues we are discussing around the 4 pm fix, their minutes are quite perfunctory. I will give a specific example. Following the call with Mr O'Riordan of UBS where he raises the “shenanigans” around the fix, goes into some detail and asks for it to be put on the agenda, the agenda item in the minutes—to my memory, having read the minutes—is very simplified or high level. It says, “issues around compliance,” and, “compliance procedures around the fix,” as opposed to the types of concern that Mr O'Riordan appeared to be getting at in his call with Mr Mallett.

Q159 Mark Garnier: This is one of the things that I am trying to get my head around. I am trying to imagine what it is like being Mr Mallett or doing his job within the Bank of England. According to Lord Grabiner's organogram, you are No. 1, at the head of the pyramid, and his function is on the fifth tier.

From what I understand, he is clearly a talented individual. He has been in that position at the Bank of England for 14 years, which is quite a long time. That suggests to me that he is well respected and that his views must be well respected. What seems to be happening is that there is some sort of formal arrangement, whereby they get together, but there is no formal recording of what is happening. Why I slightly worry about this is that, to a certain extent, the organisation, if you like, has relied on Mr Mallett's judgment as to what he considered to be something that should be raisable and what should not be.

I completely understand all the measures you put in place and if I was in your position I would probably do exactly the same thing. However, is there not a risk that now you

reverse, if you like, the onus of responsibility away from those individuals—so you start off with somebody like Mr Mallett who is taking a view on what is important information and what is not, and clearly getting it wrong on a number of occasions—to the point where you go completely the other way and you are now inundated with white noise coming in about every bit of information that is available, which, to a certain extent, has a meaningless outcome as well, because it is just too much information and no interpretation?

Dr Carney: A very astute question. We have to guard against that. Let me spend a moment on how we are reviewing market intelligence, because, as I have said a few times, it is an incredibly important function for the institution and I know that you have highlighted it in your cross-examination of Lord Grabiner. What happens? Are we going to lose, either in white noise or just the drying-up of information, a key input to our policy processes? We have to guard against that.

The first thing we have done is that we have put in place this market intelligence charter, so people in the market know what is expected of them and what is expected of our individuals. We won't trade, obviously, on that information, but informal procedures—that has always been the case, but formal policy to recuse individuals if they get information, to not trade—When I say trade, I mean on behalf of the Government. They won't trade on behalf of the Government, which is our client; on the basis of that information, they recuse themselves if they have market-sensitive information. There are a series of issues; I won't go through the whole charter. So there is an understanding of the expectation.

The second thing is that, obviously, we are training staff on how to behave, for their protection but also for their efficiency: how to behave; how to take minutes; what issues to ask about; and how to convene these forums. We have a chatroom policy; lots of issues around that.

Then, more importantly and this gets to the heart of your question, we need to be much more strategic about the type of market intelligence that we are looking for. It is interesting who is moving cable today. It is interesting if there is an underlying M&A track transaction or if some hedge fund is finally closing on a stock position—that is interesting. It is not that relevant, though, to the setting of monetary policy and it is certainly not relevant to financial stability policy, and it is not relevant to our prudential responsibilities. I don't want to be too pejorative, but it is towards the gossip end of the spectrum, as opposed to structural issues, trends, and market developments that we see.

So we need an understanding of what has been driving the rally, from a market-participant perspective, in sterling across a range of currencies. What is the view of the market around that? That is an understanding we piece together not by an individual trade here or there, or what happens around the fix; that is an understanding you piece together by regular contact and by broader discussion of the underlying trends by multiple individuals. Then it gets pieced together and we form a view based on that. It is only one bit of the policy process.

Then what we really care about, and these are issues that we have touched on and that you have raised in the past in this Committee, is issues around how the structure of market is changing. What is happening to liquidity? And I am now moving away from FX

markets to underlying bond markets, even the gilt market, with the new regulations that are coming into place and other structural changes of markets—electronic trading, and other aspects like that. We really want market intelligence around that.

So, in order to be more strategic, instead of having a group of people who are largely based in markets and who are self-motivating around the type of intelligence that we want, we have a committee of our executive directors in the policy areas now who are going to set the priorities for market intelligence. We have the support, the training, the charter and the results of the market intelligence review—all that—to support the individuals, and then the last thing we are doing is that we are increasing the resources in market intelligence. So, we are moving from 10 full-time people who are full-time in market intelligence to 15.

Historically, we had 10 full-time but about 100 people in total who would collect a little bit of market intelligence. We are shifting that model entirely from, as I say, 10 full-time to 15 full-time, and then effectively a smaller number of additional people who spend some of their time on market intelligence. So, our full-time equivalent basis goes to about 40 from the low 30s. That is the way we are trying to focus this.

I will say that there are certain types of information that we do not get any more. Who is trading around the 4 pm fix? I can guarantee we don't get that any more. But if there is a structural change in markets or an event like the ones in the US treasury market on 15 October, just after the IMF meetings, or the events around the change in the Swiss franc peg, or trend issues around structural liquidity, we do get that market intelligence. That is the market intelligence we really need, because it tells us how markets are functioning and trending.

Q160 Mark Garnier: And you have the expertise to discriminate what is general tittle-tattle about a hedge fund closing out a position, or whether George Soros is about to try to bust sterling to get us out of the ERM? That could start off as All Bar One chitchat by a bunch of traders that then turns into a major event for the Government. You are confident that there are people within this organisation you have created who can discriminate between one type of event and the other?

Dr Carney: Yes, to the extent that anyone can. One thing about markets is that they teach you humility in the end. It is a collection of positions. People often mistakenly say “The market believes” or “The market is doing X”. No; as you know, it is the confluence of different people taking different positions at different times with different risk appetites. Picking out what is structural in that is the art.

We have some incredibly talented and highly motivated people in that area. It is our job to give them the tools and, quite frankly, the protections to do their job. One consequence that we do not want—this is part of your line of questioning—is that they have to pull back and we are blind relative to markets. That is why we did a comprehensive review of market intelligence. It went to Court, was approved by the Court and is being put in place. We think we have the model right.

Q161 Mark Garnier: One final point on this. I completely understand what you are looking at; you are describing what I would understand as a number of analysts looking at news and interpreting it. Also, as part of that, you will have individuals who, I guess and hope, build relationships with the market itself, so they can understand what the information is.

My question—you can expand on this if you want—is about this whole process. There will be people watching this evidence session, sitting on their Bloomberg machine or at their trading desk. Do you think this whole process will have changed how those people on the other side of the market—not in the Bank of England—relate to your relationship managers at the Bank of England? Will it have a negative effect?

Dr Carney: Actually, that is not a bad term. Again, it goes back to where Mr Mann started. This is about professionalisation of a function. We have a lot of that and we are now codifying it and making it more effective. The initial feedback that we have received from a market which has also been affected by events—there are people who did things wrong in the market, and then there is the vast majority of people who do things right, believe in fair and effective markets and live them every day—is that they very much welcome what we are doing to set out clearly what this is and is not, what is expected of them and what is expected of us.

For example, an obvious point—this is now absolutely clear; you would expect it, but it has to be clear to market participants—if we learn about something that we have some suspicion about, we will escalate it and refer it over to the conduct authorities, just to be absolutely clear. The second obvious point that you would expect is that we are subject to freedom of information. We will fulfil that, so recognise that that is the case as well. What you tell us could ultimately be disclosed through freedom of information, which is absolutely appropriate.

Q162 Mark Garnier: But that could be detrimental. The fact that some people are on the other side of a record may mean that they are reluctant to give you information.

Dr Carney: I understand that, but again, if you are talking about structural changes in markets and what is moving the markets, that is less of an issue. We do have a responsibility to protect the individual and firm confidentiality, so we cannot offer firm-specific information.

I will make a last point on this general issue. You talked a few times about individuals building relationships, and that is right, but the other thing the Chair and I and senior management are very conscious of is that we do not want individuals in certain seats for a very long period of time. We want people to move around and get the full benefit of the Bank of England not just for their personal development but also so that they do not develop an overly close relationship with participants in the market. That is just sensible—and we have a richer set of individuals who have those roles.

Q163 Chair: I want to go back to some points that were made in the exchange between John Mann and particularly you, Governor, near the start of the hearing. One

thing that has come out is that Mr Mallett appears to have been engaged in at least 20 violations of Bank policy. Is that right?

Dr Carney: Yes.

Q164 Chair: That sounds a heck of a lot. Were you surprised that no inkling of this seems to have been in the system? Nothing of this had been picked up at all. Does that say anything about the way your internal processes for monitoring staff are set up?

Dr Carney: Obviously, I was disappointed in the specifics of this because this is, as I said, an individual who has made immense contributions to the institution and to his community. I stand by that.

Q165 Chair: It looks a shocking number at first glance.

Dr Carney: It is over a long period of time. We went back eight years. That does not excuse it, but it is over a long period of time. It is what one discovers by reading every e-mail, every chat.

Q166 Chair: We will go into more detail in a moment. Secondly, you said that Bank of England staff escalated 50 instances that could have been examples of market abuse. That is also quite a lot, isn't it?

Dr Carney: To be clear, that is a big number but it is “aware of the potential for market abuse”.

Q167 Chair: So 40 were referred to the FCA.

Dr Carney: I believe it is 42. I can write to you with the precise numbers, but for the sake of this discussion the numbers are 50 and 42. I believe the FCA is investigating a number of those, as would be normal.

Q168 Chair: But from a different perspective, were you surprised? Were you disappointed?

Dr Carney: I go the other way actually. I am pleased that—

Q169 Chair: You are pleased that it has been uncovered.

Dr Carney: First, I am pleased that the process is working and that demonstrates that it appears to be working. Secondly, I would be disappointed if the run rate of what is

escalated continues at that high level. I am afraid to say that there is an element of backlog.

Q170 Chair: It certainly does look concerning.

Dr Carney: Well, Chair, if I may say, we have been concerned about the fairness and effectiveness of our core fixed-income currency commodity markets for some time which is why—

Chair: That is why we have a review of it.

Q171 Jesse Norman: I have a couple of factual questions. Governor. It has been suggested that Lord Grabiner is involved in a second inquiry into money market behaviour. Is that true?

Dr Carney: We, as a matter of policy, do not provide a running commentary on any inquiries we are conducting, particularly if such commentary might prejudice the effectiveness of those inquiries. I hope that you understand.

Q172 Jesse Norman: I perfectly understand. If there were such circumstances, could we rely on you to write to us to let us know privately that that was the case, so that we were aware of the implications for other activity that the same people might be involved in?

Dr Carney: I think it is reasonable that you would expect that I, as Governor, and the Chair of the Court would have communications with the Chair of this Committee on those matters. We would always respect that. There are issues that arise from time to time. We will investigate them fully, completely and comprehensively. As soon as it is ever appropriate to publicly disclose any of those inquiries, investigations or reviews, we will do so, but we will use, and have used in the past, the channel of direct communication with the Chair of this Committee.

Q173 Jesse Norman: Rather than with Members? That's fine.

You have described 20 separate areas in which Mr Mallett was found wanting by the Bank as a result of this inquiry. Ignoring those, if he had still been at the Bank, would he have been fired as a result of the criticisms in the Grabiner report?

Dr Carney: I will venture my personal opinion, but let me first provide context, if I may.

Q174 Jesse Norman: Okay, but we have a lot of material to go through. I do not want to get too—

Dr Carney: This is an important question—

Q175 Jesse Norman: It is a very important question. I agree.

Dr Carney: It is an important question, and process is extremely important in matters of personnel. We respect our employees. We have to follow due process, and it is important that it is understood that we follow due process. In the instance that there were no other issues and that we got to the end of the Grabiner inquiry and had its findings, undoubtedly there would have been a review of Mr Mallett's conduct. It would have been akin to the last review of the 20 other issues conducted by our executive director of HR, who would have made a determination and a recommendation.

I will now venture my personal opinion, based on the findings of Lord Grabiner, and including information and exchanges that you have had and promulgated. In my judgment, there are serious errors of judgment by Mr Mallett that are uncovered as a result of the Grabiner inquiry that would rise at least to the level of serious misconduct. If I were taking the decision, which I would not do—

Jesse Norman: I understand.

Dr Carney: In my opinion, it would rise to the level of termination.

Q176 Jesse Norman: That is helpful. Thank you. You have obviously done a lot to clear up some of the procedural and standards issues at the Bank since you arrived as Governor. You have made it clear to us that you adopt the Caesar's wife principle that the Bank should be above suspicion. You have said that in public. Am I right?

Dr Carney: I have said that we have to hold ourselves to the highest standards.

Q177 Jesse Norman: Right. Did you and—perhaps separately—the Court and the Oversight Committee consider in any depth the question of possible conflicts of interest with Lord Grabiner? You may be aware that Lord Grabiner, for example, recently came off a very substantial piece of litigation in which he defended Freshfields against a central claim of liability in relation to the Three Rivers case involving the Bank and BCCI. Freshfields has been the Bank's legal advisers since 1743, so the question is: would there have been a worry about an appearance of conflict of interest, given the closeness of those relationships and the amount of the fees involved?

Dr Carney: Again, context is important. Process is important. This Committee is rightly focused on those. Lord Grabiner was instructed by the Oversight Committee. I am not a member of that Committee. I did not participate in the selection of Lord Grabiner. I will observe, though, that concerns about potential conflicts of interest, actual or perceived, are clearly important. Obviously, in the determination of the Oversight Committee, none of these conflicts did exist. I would further observe that the quality of the report and the work that was done is, in my opinion, first rate.

Q178 Jesse Norman: But you would be concerned about an appearance of conflict of interest. That would be a worry for you generally, for the potential implications of that.

Dr Carney: Well, yes. The challenge, as you know, is that for the top firms, for the top barristers—

Q179 Jesse Norman: It's a small world.

Dr Carney: It is a small world. There are a handful of firms and a handful of individuals who are extremely capable. The challenge as well in the foreign exchange area is that there are a lot of cases in foreign exchange. All of the major banks in the City—this is a source of great disappointment and concern for all of us—have been involved. All of them have retained lawyers. The FSA has obviously retained lawyers², so we are in a position where we need to retain firms that are not conflicted and not actively involved in any aspect of the foreign exchange investigations, which are very wide ranging both here and abroad. In my judgment, we were fortunate to have both Travers and Lord Grabiner conduct the inquiry.

Q180 Jesse Norman: You could have retained a retired judge if you had wanted to. There would not necessarily have been an issue about commercial ties if that had been the case.

Dr Carney: I remind you that the decision to retain Lord Grabiner was the decision of the Oversight Committee. I am not a member of that Committee.

Q181 Jesse Norman: The Oversight Committee could have done. I understand. Governor, may I just ask you this? Obviously, if Mr Mallett had been fired—I do not know the circumstances, and I do not recall the circumstances that you have just described with the different charges—for sexual harassment or expenses fiddling or something like that, that would be one thing. But if any of those charges that you were concerned about concerned dishonesty or markets, do you agree that that might be potentially relevant to the investigation conducted by Lord Grabiner?

Dr Carney: You are asking a hypothetical.

Q182 Jesse Norman: Well, I do not know the circumstances, but perhaps you can answer the question: did any of the reasons why the Bank fired Mr Mallett concern dishonesty in relation to markets?

Dr Carney: No, they did not.

² Note by witness: Should say “those investigated by the FSA”

Q183 Jesse Norman: Or dishonesty of other kinds?

Dr Carney: No, they did not.

Q184 Jesse Norman: That is very helpful. You said, Governor, that you regarded the tests set out in the terms of reference as being very high tests. As you will be aware, I have separately solicited counsel's advice on this, and the opinion of learned counsel is that these are, in fact, very low tests. The reason for that is because these tests are about actual awareness, actual involvement or actual knowledge of potential activity, as it were, within the market. There is within professional areas a further standard, which is whether they ought to have been aware of involvement. Do you accept that that is a higher standard than whether they were, in fact, actually aware?

Dr Carney: Let me say a couple of things, if I may. First, I applaud your initiative and diligence in pursuing these issues around the Bank's involvement in FX, or the involvement of individuals in the Bank in FX. These are important issues. I appreciate your sending me yesterday a copy of the opinion that you solicited, and I found that it made interesting reading.

Q185 Jesse Norman: I should say that you are under no obligation, it having been circulated yesterday, to answer questions from my point of view on it, because it is a short period of time to reflect on it and take professional advice.

Dr Carney: It is a short period of time. I, as was said earlier, am a busy man, but I found time late last night to read it. I am not a lawyer, and I do not have a legal mind.

Jesse Norman: Nor I. Neither of us has a judicial mind.

Dr Carney: A judicial mind. Thank you. I would like to show that I did look at the transcript.

Jesse Norman: I am suitably impressed.

Dr Carney: I did read it carefully. I found—this goes back to an earlier conversation—that in a number of paragraphs the depiction of the terms of reference was incomplete in this opinion. I will get to your specific question, but in no place in this opinion is it acknowledged that the Oversight Committee asked Lord Grabiner for recommendations of changes to policies and procedures. The entire aspect of how it was managed, what lessons should be learned and what the management's response—Court's response—should be to changing the way the Bank conducts these functions is missed in this opinion.

I recognise that the individual who wrote the opinion is obviously a busy individual as well and may not have had time to review section 7 of Lord Grabiner's report, in which he makes those recommendations, or the voluminous material supplied by the Bank in the public domain, which responds to all those recommendations.

Q186 Jesse Norman: Governor, if I may say so, I am not sure that you really want to say that. This is a very eminent counsel from an absolutely top chambers who, we can be rationally certain, will have taken all the time and trouble required to give proper consideration to the issues. What he has done has been to look at the test of actual knowledge and involvement. It may be that Lord Grabiner made recommendations relating to the test in the terms of reference he was set of actual knowledge and involvement, including knowledge of potential activity. There is a question, which is whether there is a higher standard which is that of Bank officials and employees being under some obligation to be aware—whether they ought to have been aware. My question is simply: do you recognise that that is a higher standard? I hope you are going to say yes, because that is the standard that is embedded in normal professional matters. If you were a doctor, the question would be asked in the same way. We are just applying the same standard to the Bank. You have said you want the Bank to be a higher standard still, so I am hopeful that you will want to exceed even that standard.

Dr Carney: Let me draw your attention to the following sentence in this opinion. I can do it on multiple occasions, but I will do it on one. I recognise there is tremendous value in this opinion. I am not questioning the opinion, but I will draw your attention to this, since we are talking about terms of reference. Paragraph 22: “Under the terms of reference Lord Grabiner was only required to form a view on whether Bank officials were aware of improper conduct.” That is not correct. The terms of reference, which we have discussed, includes: “whether Bank officials were aware of the potential for improper conduct”. That is a higher standard.

Q187 Jesse Norman: That is a form of awareness. The question is, were they actually aware of the potential? He is talking about the actual awareness. The question is the norm—the objective test of whether they should have been aware. We do not need to pause on this. Let me move very quickly, if I may, to Mr Habgood, who is obviously ultimately in charge of this item.

Mr Habgood, do you share my concern—the Bank can decide whether it accepts the Government’s view of whether it regards this as a higher standard. I think it will find that the Bar does. The question is, should the Bank have adopted, with whatever public support or acknowledgement it did, these very liability-shielding terms of reference, because they insulate the Bank from further inquiry of conduct according to standards and up the chain according to standards? They leave open the possibility that there could be staff who have been shielded from criticism by this decision.

Can I just remind you, Mr Habgood, that when you came in front of this Committee, you said that you accepted—in fact you agreed entirely—that the Bank from a reputational standpoint required a broader look than just involvement in manipulation; involving knowing about it and giving information that should have alerted it to it. In other words, you seem to be embracing the higher objective standard that we are talking about.

Anthony Habgood: And I continue to do so. I think that Lord Grabiner’s investigation did have that higher standard. If I quote from his first conclusion: “I have found no

evidence that any Bank official was aware or should have been aware”—you would rather have had “ought” to have been aware than “should” have been aware, if I understood your thing earlier, but I find it hard to distinguish between those two—“no evidence that any bank official was aware or should have been aware of any unlawful or improper behaviour in the FX market” save the particular criticism of Mr Mallett. So I think he did adopt it. I was certainly of the view that he was working to that level of standard. I think he thinks he was working to that level of standard and I think his conclusion is very clearly that he felt he was. *[Interruption.]*

Chair: I have tried very hard to get it agreed over the past five years that we can have a switch in here to turn that bell off, but I am told this could only be done at a cost of hundreds of thousands of pounds, so I have given up.

Anthony Habgood: I am disappointed that your influence is so limited.

Q188 Jesse Norman: Welcome to the world of Westminster. Thank you for that, Mr Habgood. Just to be clear, you accept that the “ought to” standard is a higher standard than the mere actual awareness and you think that standard is discharged by the Grabiner report?

Anthony Habgood: I come back to the Governor’s earlier point on the terms of reference. I think the terms of reference were a higher standard than actual awareness, as he quoted earlier. He quoted the terms of reference to you. Yes, I believe that the investigation was—and as I say, I will quote that conclusion again—that there was no evidence that any Bank official should have been aware.

Q189 Jesse Norman: If that is the case, would you mind writing to Lord Grabiner in your position as Chairman of Court and asking him whether, if an objective test were adopted, his conclusions would change? What is known in the law as the objective test is whether they ought to have been aware. Would his conclusions change? That is the question.

Chair: Come back to us if you want to reflect on that. I am not quite sure I fully understand the question.

Anthony Habgood: *indicated assent.*

Q190 Jesse Norman: A final question, if I may. In local government, oversight committees have an untrammelled and unfettered freedom to review activity by the institutions which they oversee. The Oversight Committee at the Bank has a delimited scope of activity set in its own rules. Would you be amenable to asking the committee or considering whether or not any restrictions should be removed, to give the committee an unfettered oversight over any aspect of the Bank’s activities?

Anthony Habgood: I feel that I have unfettered access, save for the very specific policy committee decisions. I feel that I have the right to roam, and I have sat in on many

of the Monetary Policy Committees, many of the FPCs and many of the PRA boards as well, as an observer. I was not there to offer opinions on the level of quantitative easing, and nor do I think that I should be. I do not feel that I am restricted in terms of where I can go. At no time did I feel that—

Q191 Jesse Norman: Others—your successors—might feel fettered in other ways. Do you think it might be a good idea to at least make it clear that the scope you naturally assume is one that you are actually formally given?

Anthony Habgood: We can consider that matter, if you like. That is probably a better way of looking at it.

Jesse Norman: Thank you.

Q192 Chair: It is worth pointing out that there has been a dramatic shift in your role, Mr Habgood, which I hope that you are fully aware of, and an increase in the clarity of your responsibilities with respect to oversight at the Bank, as a consequence of the decisions that have just been announced. That might require some further statutory change, but the Chancellor has already announced that he would support it. In particular, you are able to range—as I understand it on the basis of the announcement that the Bank made at the end of last year, but correct me if I am wrong—to any activity in the Bank, except those areas specifically delimited by statute. Those are basically the three policy committees, and the policy decisions of the MPC, the FPC and the PRA. Is that correct, and is that your understanding of your role?

Anthony Habgood: My understanding is that the way we are moving—I keep wanting to put it in the present, but of course it is all subject to statute, so I can't do that—is towards having a unitary board. If you have a unitary board then yes, you do have the right to know what is going on throughout the Bank, as I say, save for where there are these very specific policy committees, which are specifically excluded.

Q193 Chair: This Committee had a huge job in getting this broadening of scope agreed and something akin to a modern board put into the Bank. By the sound of it, you are as keen as we have been for years to get this into statute. Is that correct?

Anthony Habgood: Yes. I am keen to put into statute the outline that we put out in that paper in December. Whether that exactly ties in with your perceptions, I am not entirely sure from what you said.

Q194 Chair: I am not asking a trick question, because I do not have those papers in front of me myself and in any case I would not try to do that. I recall that that is pretty much what the paper said, or certainly what the spirit of it was. Governor, you have been itching to get in for some time.

Dr Carney: Going back to the opinion that Mr Norman solicited and circulated, as I say this is helpful in terms of the legal definition of manipulation and discussion and characterisation of certain conversations, which are issues which Mr Norman has raised. There is one issue I would like to address directly, because there is a judgment here in paragraph 37, which states, “I do not, with respect, agree with the Governor that Lord Grabiner has reconsidered any points”. That paragraph goes on—again, I do not have a judicial mind, but in effect what is said is as follows—“It is a fair inference that if Lord Grabiner had independently reached the view that he should reconsider his work, he would”—sorry, this is what I want to quote—“Simply restating one’s reasoning in greater detail is, however, a different exercise from being mandated to reconsider it.” On the basis of that paragraph, I can only presume, Mr Norman, that you said today that I had erred in my letter to this Committee, in saying that Lord Grabiner had reconsidered his view. May I be absolutely clear? This is an important issue. You have suggested that I have erred in a letter to this Committee, on the basis of this opinion.

Jesse Norman: I have said “it has suggested that”.

Dr Carney: “It has suggested”. Okay. But let’s be clear of the facts and why I wrote what I wrote, because Lord Grabiner was subject to robust questioning, as entirely appropriate, by yourself and by this Committee. One of the points you made—quite rightly, in my opinion—was, “Why don’t you go back and listen to the actual audio tapes?” He did. He went back and listened to the audio tapes, reviewed the evidence, wrote back to the Committee—I think, from memory, five days later, on the 26th—and came to the same conclusion in his characterisation of the so-called traitor call, the call on which you had rightly focused, legitimately. A call that in the words of Mr Béar is open to interpretation, but important probing and a lot of information came out of that and, I thought, quite a useful exchange about what is and what isn’t manipulation of the market and how that is understood.

Lord Grabiner went back and reconsidered it. He listened to new evidence, which, as you pointed out, supplements the actual reading of transcripts. He did that; reconsidered; came to the same conclusion; wrote back. That is why I wrote to this Committee and said he has reconsidered. Given this opinion, which is based on an inference, not on a conversation with Lord Grabiner, not on an understanding of what Lord Grabiner actually did—but based on an inference, as it says in the thing—it suggested that I erred. So I went back and checked with Lord Grabiner. Did he reconsider? Yes, he did, and he came to the same conclusion. So I did not err. For the record.

Jesse Norman: I perfectly understand, Governor, and thank you for that clarification.

Chair: This will have to be quick.

Q195 Jesse Norman: Just to be clear, what you are saying, then, is that he went through a process of testing whether or not his conclusions had changed as a result of the further consideration that had been adduced.

Dr Carney: That is what I am saying.

Jesse Norman: That is what he said to you and that was why—

Dr Carney: That is with respect to the specific conversation, and I know that he went back and listened to the audio tapes prior to writing back to this Committee—a reconsideration of the evidence. Subsequently, because of this opinion—this inference, I should say, in this case; that is important; a higher standard, I might add, one expects—and your repetition of it—

Jesse Norman: Explicitly so, yes.

Dr Carney: We went back—our general counsel went back—and Lord Grabiner confirmed that he is entirely comfortable with that characterisation of what he did.

Chair: A very quick question, Mr Norman.

Q196 Jesse Norman: It is only because the Governor has put the question of his conversation with Lord Grabiner into the public domain.

Did you discuss with him, Governor, the contrast between the minimal standards adopted according to counsel in this inquiry, the professional standards normally adopted for professional inquiries of this kind, and then the higher standards that we—and you yourself—would expect of the Bank? Did you discuss that framework of, as it were, what the correct standards were with Lord Grabiner when you spoke to him?

Dr Carney: Two points. First, we may have spoken across each other. Our general counsel spoke to Lord Grabiner to get the confirmation. I knew the circumstance of his review when I wrote my letter to this Committee, as you would expect I would if I were to make that.

In terms of the standard applied, I associate myself with my previous comments and those of the Chair of Court, in that our view is that Lord Grabiner applied the high standards, and that because of his application of those higher standards, the consequence is his criticism of Mr Mallett, because of awareness of potential and, in addition, a series of recommendations on changes to policies and procedures, on which we have acted, and which are critically important to the effectiveness of this institution, going forward.

Jesse Norman: Thank you.

Q197 Rushanara Ali: Governor, to what extent has the Bank’s reputation been damaged by the allegations that its officials condoned or were aware of manipulation in the foreign exchange market?

Dr Carney: The reputation has certainly taken a knock. This hasn’t been a pleasant experience, but the test of an organisation is how it responds to a circumstance such as this. In my view—and others will judge—we responded in as timely a fashion as possible. On the day I became aware of it we decided to launch an independent inquiry and lawyers were instructed within 48 hours³. As soon as those lawyers found any evidence of potential awareness of the potential for manipulation in markets, the Oversight Committee

³ *Note by witness:* Should say “the process that led to lawyers being instructed”

took over. Within a week it had instructed additional independent counsel in the form of Lord Grabiner. Lord Grabiner, as we have been discussing this morning, conducted a comprehensive investigation.

If it were just that process in identification of where individuals had fallen short and a comprehensive reporting of what happened and what didn't happen—very importantly, what didn't happen was that any individual facilitated any illicit activity or manipulation, that they had any knowledge of that illicit activity or actual manipulation, or that they passed on any confidential information or facilitated that; all of that is clear—but if we had just done that, the reputation doesn't begin to recover from it, because it is an isolated case and you move on. The right question is, what have you changed in how you run the organisation in order to ensure that this doesn't happen again. So what is critical are the changes to the policies and procedures of the institution and making sure that they stick.

Q198 Rushanara Ali: That is really helpful. The deputy governor, Ms Minouche Shafik, recently set out how the Bank had started to move from constructive ambiguity to clarity in its approach to market intelligence and today you have shed more light on how improvements can be made. Do you agree with the assertion that, although Lord Grabiner found no improper practice, he found too much ambiguity?

Dr Carney: I agree with that characterisation, yes.

Q199 Rushanara Ali: Are you confident that all Bank officials will be able to distinguish between ambiguity and wrongdoing in the future, in the light of what has been uncovered and identified?

Dr Carney: It is our responsibility to equip them to make those judgments. That is why we have trained more than 160 people in the non-investment products code which currently governs spot foreign exchange. We have done that training. We are training in market intelligence, how to conduct market intelligence and how we provide other projections through explicit policies, from document retention through to escalation—all those policies we have been discussing. Then we have to support that further in management, through monitoring adherence to it, a proper compliance function in the Bank of England in order to test that and, obviously, as a third line of defence, internal audit to determine that everyone is doing their job and publically accountable through this Committee.

Q200 Rushanara Ali: As a final question to you, in the light of the fact that Mr Mallett was dismissed at around the same time as the inquiry came through, do you feel there is a public or certainly a media distrust that the timings were as they were? I recognise what you say about the grounds on which he was dismissed, but do you feel that it is unfortunate that that has happened? Could that action have been taken earlier in order to have clear distinctions between the two things? Does that not add to a distrust about establishment organisations? Might it feed a perception that there is more of a “conspiracy”, rather than just unfortunate timing?

Dr Carney: It is not ideal. There should have been a separation. I go back to my previous answer: we have to follow due process and once that process has been followed and there is a clear determination that there are grounds for dismissal under serious misconduct, as management we have to act and that is what we did. Two other points that have been brought out in this hearing are important. The first, which is the core finding of the Grabiner report with respect to Mr Mallett, is not that he engaged in illicit activity, not that he was even aware of illicit activity or forms of manipulation, but that he was aware of the potential and he did not escalate. So, to be clear about the standard of the issue, in that this is one individual.

The second, if I may, is to Mr Norman's question of me. It is sub-optimal to have to answer it in this form, but what is the counterfactual, what would have been the case in the judgment? With all the caveats I had, which is that that is not my decision, it is not the Chair of Court's decision, it is our ultimate decision, but the recommendation would come through a fair process, due process, from our head of HR. In my judgment, this would have been grounds for dismissal.

May I add one other thing, Miss Ali? To state the obvious—but maybe it is important to state the obvious—all of the work of Lord Grabiner and Travers Smith was shared as needed with the FCA, the conduct authority, and the conduct authority can form its own judgments about penalties or not for individuals, and they obviously can answer for those.

Q201 Rushanara Ali: You mentioned the conduct authority. We have had an inquiry into one of its own failings, where there was a remarkably similar pattern, where somebody was dismissed for other reasons. So you can see why such patterns can raise some concerns among the press or in this Committee about the actual reasons. I hope you can understand why we are asking these questions—what the actual grounds are.

Dr Carney: I absolutely understand why you are asking these questions, and welcome the questions. It is not a comfortable conversation but I am answering them to the best of our ability of what we can say. But there is a clear distinction between the reasons.

Q202 Rushanara Ali: Mr Habgood, did you want to add any reflections on these points? Do you have anything further to add?

Anthony Habgood: I would come back and say that to me, the soft part of the Grabiner report is the recommendations as to what we should change going forward, rather than the hard evidential, there being no activity. That is hugely important. They are things that the Governor instituted shortly after he came, or some of them were. They were boosted as we went through this investigation, and now we have got to make sure we go through the next series of embedding the escalation policy, attestation policy, the code of conduct and so on. It is very important that those get properly embedded and then are audited, because this organisation is a much bigger organisation than it was a couple of years ago—much bigger.

Q203 Rushanara Ali: Culture change takes time, just as these cultures have become entrenched. What is the review process—the reflection process—in seeing how your changes will then come into effect, and what are the internal checks and balances that will be instituted to give you confidence that the changes are working and that it does not turn into a bureaucratic, tick-box exercise, or have unintended consequences such as those that have been mentioned in other questions?

Anthony Habgood: Are you asking me?

Rushanara Ali: Both of you.

Dr Carney: First, it helps to change not just the policies but also the structure. When you change structure, that shakes things up; it moves things. You have different individuals. You have different oversight. You have more formal oversight. It is a fairly radical change to the way we do market intelligence—I am simplifying a bit—from people who are on desks, who are transacting with individuals, also gaining market intelligence as part of that process, to a strategic, targeted, focused effort to get specific types of market intelligence, and those priorities are set by the executive directors of the Bank, in the policy area. So they are the relevant ones.

If I may, this is another element of making this one institution, so it is not market intelligence for markets or market intelligence for just monetary policy, but it is for prudential supervision, it is for macro-prudential policy, and it potentially can draw on some of those resources to help frame and focus that market intelligence. So partly it is changing the structure as well.

The next thing is that you have to use your other lines of defence, which is a proper compliance function. We are building that, and the Chair can speak to that. Internal audit is necessary but, as you say, cultural change takes time. I will just observe, as my last point, that we launched the MI review, the MI charter and all these changes last week, on the same day as Dr Shafik's speech. There were 200 people in the Court room, and others plugged in by TV and beyond. There was a lot of enthusiasm about the new approach. There are great people in this area, and they will be well supported. That helps to change the culture. But I absolutely accept your core point, which is that it takes time.

Anthony Habgood: The only thing I would add is that one of the things introduced a year or so ago as part of the strategic plan and the adoption of it was the appraisal process of the individuals. That was not as well developed or as professional as, in my view, it should have been. If you tie that into a process that is looking and asking, "Are people being brought forward to their full potential? Has someone got into a rut somewhere or other? Is there something one can do?" you open a lot more ability to bring some of those things to the surface. Otherwise, I entirely agree with what Mark was saying about the codes, the auditing and the compliance. Those are absolutely critical and it is surprising that they are not better developed.

Chair: That is an important finding. No doubt you will want to come back to us with a progress report in due course.

Q204 Steve Baker: Good morning. In conversation earlier with Mr Garnier, Governor, you reminded us that the Bank is subject to freedom of information requests, which has consequences in relation to market intelligence. Very simply, is there a way for someone to give confidential information to the Bank? If not, should there be?

Dr Carney: Yes. I make a distinction. There is confidential information that is time-specific and there is a lag with freedom of information. There has to be a request. It goes through a process. We gather the information and then decide whether or not we release it. If it remains commercially confidential, we obviously retain it. But for much information, the core of it is not—there is a time decay on its confidentiality or sensitivity.

Q205 Steve Baker: I am thinking about individuals and the position they may have within their firm. If they wanted to give an anonymous piece of information, would they be able to?

Dr Carney: We have an ability to anonymise—let me put this in perspective. A lot of the type of market intelligence we would get would be in meetings—this is a hearing, not a meeting—not dissimilar to this in terms of the number of individuals around the table in a discussion. In that discussion, the opinion of a person at bank X would necessarily be ascribed to bank X as, “This issue was raised.” We can debate whether or not that information is confidential, but it is relevant—I accept part of what you are saying, which is that we have to be sensitive to not put into the public domain that bank X thinks that—

Q206 Steve Baker: Just to be clear, I want to move on. I am just trying to establish whether the freedom of information requirement compromises the information that you are likely to receive. It sounds like it probably does not, because of the manner in which you receive market intelligence.

Dr Carney: In the manner that it does, it will compromise, as it should, some information. Some of the information we used to receive, quite frankly we do not need to receive.

Q207 Steve Baker: Mr Norman raised the question of potential further appointments for Lord Grabiner. I am looking at a *Financial Times* article from 21 November, which makes the assertion that Lord Grabiner has been asked by the Bank to head a new investigation. Has there been a leak to the *Financial Times* or an inappropriate release of that information?

Dr Carney: It is our policy not to provide a running commentary on any investigation that we are undertaking.

Q208 Steve Baker: That is what it says in the 21 November article in the *Financial Times*, too; but I am slightly concerned that you don't provide a running commentary, yet a reputable newspaper felt able to assert that Lord Grabiner had been asked. I am simply putting this to you: has there been a leak of confidential information about the Bank's intentions in relation to appointing Lord Grabiner?

Dr Carney: I am not sure how I can answer that question and remain loyal to my previous response.

Q209 Steve Baker: That is a very good answer for someone without a judicial mind.

Mr Habgood, turning to the Court, what lessons have been identified from this investigation that would be relevant to future investigations?

Anthony Habgood: There are a lot, relative to the running of the Bank, which I think we have been through in some detail. On whether they are relevant to future investigations, I think that this re-emphasises the need, where the Bank is under suspicion of acting inappropriately—with the various “shoulds” and “coulds” after that—that we are able to, and should, put in place a very heavyweight, independent investigator to look at it. That is absolutely right. I am not sure whether, if you look from one investigation to another, you can then draw the conclusion, “In the future we will do this or we will do that”, because everything that we do is different. As you know, RTGS is in the public domain now. We are looking at the failure of RTGS, but the process for that is totally different from the process for this.

Q210 Steve Baker: So the Oversight Committee has not identified something that it simply would not do again, in a further set of circumstances?

Anthony Habgood: No.

Q211 Steve Baker: We have established—that is, we know—that the Governor is not a member of the Oversight Committee but has attended some of the meetings. What proportion of relevant meetings did the Governor attend?

Anthony Habgood: Since I became Chair of the Court, all the meetings of the Oversight Committee that were associated with Lord Grabiner's investigation were attended by the Governor and the deputy governors. The reason for that was in all of our judgments. When you started this, we were looking at potential malfeasance going on right up to 2013—who knows, but we were looking up to 2013. Obviously, there is a real case then for keeping it separate. Once you have established that that is not the case, there is no earthly reason—in fact, it is beneficial, when we are talking about cultural implications and the recommendations that are dealing with culture and structure and all that. It is very, very important that both the Governor and the deputies see that first hand and get to interact on that first hand.

Q212 Steve Baker: For the sake of clarity I should say that, in putting the next point, I am not implying any kind of shortcoming or error on the part of the Governor. I observe that the Governor is in fabulous command of his brief; he enjoys supreme personal authority and today, as in most of his appearances, he is the dominant force on any panel.

Dr Carney: But—

Steve Baker: My concern is that, if the Governor attended all those Oversight Committee meetings, was he the dominant force in all those meetings?

Anthony Habgood: No, he was not. Lord Grabiner was completely clear that he was not reporting to the Governor.

Q213 Steve Baker: Turning to policy, the FCA fined five banks and identified three specific failings of three types of improper conduct. First, the attempts to manipulate the WMR and ECB fix rates; secondly, the attempts to trigger clients' "stop loss" orders; and finally, the inappropriate sharing of confidential information with traders and other firms. Which of those findings are you most concerned about, or do you have a hierarchy of concerns around those three? Perhaps I could ask you first, Mr Habgood, from the oversight point of view.

Anthony Habgood: No, I don't. I think that they were all very serious and it is not for me to create a hierarchy of those. However, I have an expert on my left here.

Dr Carney: I think the manipulation of the fix and the stop loss—both are effectively defrauding clients, so I view them with an equal level of seriousness. What is concerning about the inappropriate sharing of confidential information is how much of a pattern there was to it. It is a way to facilitate doing the first two. They come into the chat room—there are countless examples in the FCA's investigation, and I credit them for discovering this—and share their net positions and, in some cases, specific client positions.

We all recognise that institutions should not share confidential information. It is in contravention of the NIPs code as well, so it falls under that standard, but it was widespread enough that it rose to a level that the FCA could effectively prosecute under principle 3, which is the failure properly to control activities to the extent that it could call into question the integrity of a market. That is pretty serious. The first two were in effect defrauding clients. The third facilitated that, but is fundamentally concerning because it was so widespread and so contrary to what any of us would recognise as a fair market.

Q214 Steve Baker: Turning finally to the fair and effective markets review, it has proposed bringing the WM/Reuters 4 pm London fix into the perimeter. To what extent will that address the failings that have been brought to light by the FCA?

Dr Carney: It will help. The 4 pm fix will be in the perimeter. It will be a regulated activity as of 1 April. The Government have made it clear that they will use existing primary legislation to ensure that that is the case. It will be a criminal offence to manipulate from 1 April going forward, and we commend that decision, because this is

important. It is, however, only one piece of the puzzle. Manipulation, attempts to manipulate and the sharing of confidential information can happen at any time of the day. There are other pinch points in the market. Even though it is a pretty big liquid market, depending on the currency periods, there are other opportunities that could be gamed and manipulated, so other aspects need to be addressed. The question here—I am sure that it will be the subject of debate going forward, including in this Committee—is where does that perimeter stop? Where does an entirely overhauled NIPs code and a new industry code—where is the boundary between the two? That is the subject of serious consideration right now through the FEMR process.

Q215 Steve Baker: If I may follow up on that point, you said a moment ago that two of the three areas of concern were effectively fraud, or whatever the words were that you used. Do you think there has been a substantive shift in where the boundary lies on what is considered acceptable conduct by market participants?

Dr Carney: The issues on which the FCA prosecuted—I do not know whether prosecute is the right term, but it is my term—were so extreme that they rose to that standard. It is a high bar to be able to come in under principle 3, which is one of the issues. As you know, spot FX is a market that is not subject to the standard market abuse tests, either in civil or criminal law. The FCA had to go around that route. The issue is to bring standards to the core of the market, so that you can apply at a minimum civil tests and, if necessary, criminal tests—as would be applied in the equity market, for example.

Q216 Chair: May I clarify a few points from what we have just been hearing? Mr Habgood, we are relieved to hear that under your chairmanship, the Governor is not the dominant force in the room. The deputy governors are always there as well—is that what you said? Is that what we heard?

Anthony Habgood: Unless there is a reason for them not to be there, they will be there. This was for the Grabiner investigation. That is what we are talking about here.

Q217 Chair: Have the non-execs ever held a private meeting about this subject?

Anthony Habgood: Have they ever held a private meeting about this subject? Clearly, yes, at the beginning, but while I have been Chairman, no. After each of the meetings in which the Governor and the deputy governors have been present, the non-executives have met privately.

Chair: So the answer is that they have had a separate private meeting.

Anthony Habgood: Yes.

Q218 Chair: I am trying to clarify whether the non-execs are operating as they probably would in a private sector environment in such a case, where they would say,

“Okay, there is something that concerns the execs”, conceivably including one who might be in the room or have an interest in it. Then they say, “Right, we’re going to have a private meeting.” Certainly, I have experienced that in my private sector life. I am sure that you have.

Anthony Habgood: My practice is always to have the non-executives meet privately after every Court meeting.

Chair: So they are meeting privately.

Anthony Habgood: They are meeting privately but—

Chair: And they have discussed this privately.

Anthony Habgood: Yes.

Q219 Chair: And clarified that they are happy, and the non-executives who might feel that they want to express themselves in a way they might not have done in front of the execs have had an opportunity to do so.

Anthony Habgood: They have an opportunity to do that, yes.

Q220 Chair: Did you check that the non-executives had played that, if I may call it, dominant role in creating the Grabiner inquiry prior to your arrival? You did not even attend the first meeting as an observer, I think I am right in saying.

Anthony Habgood: I was not even announced when the first meeting happened, let alone joined.

Chair: I am not suggesting that you should have done. I am just saying—

Anthony Habgood: That happened before I was announced. I attended the first Oversight Committee after I was publicly announced.

Q221 Chair: I am just trying to get clarity about process. Did they meet privately?

Anthony Habgood: My understanding is that the non-executives met privately to commission the Grabiner review.

Q222 Chair: How much time are you devoting to this job now? You have been in the job for six or seven months, so we can get a feel for whether we are talking about one, two or three days a week.

Anthony Habgood: No, one and a half to two days a week is what I said I would spend. That is what I will spend. I will be spending a bit more, obviously, as I get up to speed on it.

Chair: So at the moment, it is more than one and a half to two?

Anthony Habgood: I do not measure that finely, but not far off.

Chair: We would like to know. I do not want you to keep a timesheet because it may be parts of any day.

Anthony Habgood: It will be parts of every day.

Chair: It would be helpful for us to have an overall feel, just as any private sector firm would want to have an overall feel.

Anthony Habgood: I will give you the feel of a day and a half to two days a week.

Chair: The only reason that I asked the question was that a moment ago, you said that it is higher than that just now.

Anthony Habgood: I said that it has been higher than that as I have been getting myself up to speed.

Q223 Chair: The independence of reviews—this is the first review under the new arrangement that has taken place—is certainly a huge step forward on what might have happened in the old days; I think we are all agreed on that. We were surprised by Lord Grabiner’s ignorance about the cost of his own inquiry. Were you?

Anthony Habgood: I blame myself for that, actually, and I blame myself, in a way, for getting his hearing off to the wrong start here. I sent you a copy of the note of his fees a couple of days after. It would have been much better if had been a couple of days earlier, so that you could have had a direct discussion of it with him. I apologise for that; that is a mistake of mine.

Q224 Chair: The reason I am asking is that if you wanted to have an independent inquiry, the person in charge of it has to be capable of hiring whomever they want to assist them to do the job, and that may cost money. Therefore, the question I was probing was not a vicarious interest in his fees—although £3k, if you can get it, is very good business. What I am interested in, and which is more important, is whether he had financial independence to conduct and to hire whomever he needed?

Anthony Habgood: He certainly got whatever he wanted. My understanding is that he did not pay Travers Smith for the work they did. That was done by the Bank, obviously.

Q225 Chair: I am trying to draw a comparison with other independent inquiries: for example, judge-led inquiries, the Vickers inquiry or, for that matter, the inquiry that I

chaired—the Parliamentary Commission on Banking Standards. We were given unlimited resources. The job of justifying how much is spent is transferred from the person commissioning the inquiry to the person leading the inquiry. I was directly responsible to Parliament for explaining how I spent that money.

In this case, that did not happen, as far as I can tell. So it is much more than a question of you sending me a letter. What I am probing is, don't you think that in subsequent independent inquiries, you might need to commission, and that it is important that we put much more commonplace arrangements in place?

Anthony Habgood: There was no constraint on the amount of—

Chair: No, you have said that. I am now talking to you about how it is arranged. The fact that Lord Grabiner was able to tell us that he hadn't a clue was, to put it mildly, revealing not only about an attitude of mind but, much more importantly, about a structure of the inquiry that left something to be desired, because it could have created a perception that you might have been able to restrain what he did by restraining financial resources.

Anthony Habgood: I assure you that we did not, however, but I understand; I hear you.

Q226 Chair: Okay. You have taken on board the point that we are trying to make to you about the creation of subsequent inquiries.

Anthony Habgood: I have.

Chair: It has been a very helpful exchange and we have picked up quite a lot. There are one or two points that we might follow up later.

The Committee saw the Court a little over four years ago and, frankly, it was not a happy experience. It did not go well and we felt that we had learned very little. We have learned a good deal more today about the way the Bank is functioning and we have a bit more confidence that there is some scrutiny of the Bank's governance going on, given that the Bank has vastly increased powers. We are grateful to you for the full answers you have been giving today. You have described, as you put it, as a process in the present. It is extremely important that we develop these much higher standards of accountability.

We are very grateful to you for coming.

Dr Carney: Thank you very much.

Anthony Habgood: Thank you very much.