Treasury Committee

Oral evidence: Financial Conduct Authority, HC 515

Wednesday 20 January 2016

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Watch the meeting

Members present: Mr Andrew Tyrie (Chair); Mr Steve Baker, Mark Garnier, Stephen Hammond, George Kerevan, John Mann, Chris Philp, Mr Jacob Rees-Mogg, Rachel Reeves, Wes Streeting

Questions 86-265

Examination of Witnesses

Witnesses: **John Griffith-Jones**, Chairman, Financial Conduct Authority, and **Tracey McDermott**, Acting Chief Executive, Financial Conduct Authority, gave evidence.

Q86 Chair: Thank you very much for coming to see us this afternoon. The first point to make is that there may be a Division and it is possible that we will have to go. We are going to see if we can avoid going into a brief suspension of the hearing and we are hoping that we can avoid that, possibly by an informal pairing-off arrangement. We will see.

The second point I want to make is that we, in any case, have six-monthly meetings with you both, with both the Chief Executive and the Chairman, and our next one will be during the spring, pretty much on top of where the Budget is likely to be. We have a very large amount of ground to cover today, and a logical approach might be for, for the lion's share of the wider questions, whether they are on markets, the Davis Review, board effectiveness—we will touch on that today, but there may be much more to examine—certification, the SMR and a good number of the concerns that have been expressed to us by constituents, and there have been a large number, to come back to a good number of those issues in a few weeks or take them further, if we do make a start on them, at that subsequent meeting. I am sure that that is agreeable to you both.

I would just like to begin with a simple but very important question to you, John Griffith-Jones, as Chairman. Do you feel that the FCA has been put under political pressure? Have you felt any pressure? Have you seen or noticed any pressure from the Treasury to do anything that you felt would, in any way, compromise your independence and, in particular, have any of the specific decisions that have been taken been taken partly as a consequence of that type of communication?

John Griffith-Jones: The simple answer is "no" to both. On the general, I do not feel a sense of pressure, and certainly on specific operational decisions, particularly enforcement and supervision ones, clearly not.

Q87 Chair: On the decision to cancel this work on the culture of banking, were politicians or officials of the Treasury, or indeed in any other part of Whitehall, in any way involved in this decision or made aware of this decision at the time you took it, and were there any discussions that took place that relate to it?

John Griffith-Jones: Not as far as I am aware. I am sure, if you ask Tracey, she will give you an answer.

Chair: I am asking you.

John Griffith-Jones: No, there was not.

Q88 Chair: I am only going to ask the Chairman about these decisions. It is the Chairman's direct responsibility. Have you made an effort to trawl through your records to ensure that this is the case? Have you asked other senior members of the FCA to ensure that what you are telling me now is correct and that is not subsequently contradicted by a piece of paper that might pop out of the FCA?

John Griffith-Jones: We have certainly made the trawl. I know the Committee has been circulated with the response to Lord Sharkey's FOIA request.

Q89 Chair: I am not talking about the FOIA request. It is conceivable that there might be something that does not satisfy a FOIA request. Nonetheless, a FOIA request is not much interest to a Select Committee. We ask for information and we expect to get it.

John Griffith-Jones: No, there is nothing else.

Chair: There is nothing.

John Griffith-Jones: I am sorry; I do want to clarify, so that there is no misunderstanding. There was a supplemental letter to Lord Sharkey, I think dated yesterday, about the fact that a copy of the ExCo paper went to someone at the PRA, which was not included in the first answer, but was clarified in the second answer.

Q90 Chair: It has been alleged that the decision not to reappoint Martin Wheatley was in some way a decision motivated by or at least having the effect of compromising the independence of the FCA. Is that your view?

John Griffith-Jones: No, it is not. It was always clear to me, as indeed is laid out in the statute, that the appointment and, in his case, reappointment of Martin Wheatley is a decision for the Chancellor or for the Treasury. As far as I am concerned, they were exercising that power last summer when they notified Martin that they did not wish to reappoint him in what was then nine months' time.

Q91 Chair: Would you disagree with those who argue that the decision might have compromised the independence of the FCA?

John Griffith-Jones: It certainly raised the questions in people's minds who properly do not follow or know exactly what is written in FSMA.

Q92 Chair: They are mistaken, in other words.

John Griffith-Jones: They are mistaken in believing that it affects the independence of the organisation.

Q93 Chair: Or the morale?

John Griffith-Jones: The morale would be a different thing. Clearly people working in an organisation have natural loyalty or otherwise to the leader at the time, and there is no doubt that Martin was popular in the organisation and, therefore, it inevitably had an impact on morale.

Q94 Chair: As you know, the Office for Budget Responsibility is a statutory independent body, and the head of it is responsible for producing an independent forecast for the Treasury, twice a year. In order to buttress that independence in statute, his appointment and dismissal are subject to approval of this Committee. In this case, the head of the FCA was dismissed without any prior discussion in Parliament or in this Committee. Do you think that there is merit in an arrangement such as has been put in place at the OBR being extended to the appointment and dismissal of the Chief Executive of the Financial Conduct Authority?

John Griffith-Jones: I cannot really comment on the appointment, although that decision has to be made as to who makes the announcement, but once appointed independence is paramount. With hindsight, three years is a bit short. My personal appointment is five years. If I had my choice, I would suggest that this should be a five-year appointment. I think it is very important that the Chief Executive should not be dismissible for improper reasons, so there may well be some merit in ensuring that that cannot happen. Given that we are accountable to yourselves, I am not the expert on exactly how that should take place, but I think it should be made subject to some sort of scrutiny.

Chair: The OBR precedent might offer something.

John Griffith-Jones: I cannot claim to have examined the OBR documents in great detail but, based on what you say, there may be some merit in that as a possible model.

Q95 Chair: Can I turn now to what led us to hold this particular hearing? Was the release or was the fact of the information coming into the public domain about the culture review as a consequence of a planned pre-briefing or was it a leak, Mr Griffith-Jones? I am going to address my questions to the Chairman, because I think these are matters of such importance that it is crucial that the Chairman should be on top of them.

John Griffith-Jones: If I might be able to ask Tracey to help me if I get stuck, then I am very happy to do that.

Q96 Chair: I am hoping that you do not, because these issues go to the heart of the credibility of the FCA. I, and I think Parliament and the public, expect the Chairman to answer on them.

John Griffith-Jones: Indeed, I am delighted to do so, but I am doing it with what I have learned in arrears, so I want to make it clear that I was not involved. You would not expect the board to be involved in all the steps, so I am telling you what I have learned subsequently.

Chair: That is what chairmen are there to do, so what is the answer to the question?

John Griffith-Jones: The answer is neither. There was a communication plan, which again the Committee has seen. That was drawn up in good faith and involved telling the banks, the panels and Mr Garnier what we were doing in real time—the banks because they were interested, Mr Garnier because he was interested and the panels because, as you know, we are very keen to keep close to the panels. In the minds of the executive, what had happened was an improvement to what we were doing, not an abandonment of what we were doing. The plan, and it says it, was to update the world at large on what we had and had not done at the time of the annual report, which is how we normally do things. That was a logical decision. If you untie the decision on its merits from the speculation around independence, it is a perfectly useful decision to have taken.

Q97 Chair: I really was asking a much more precise question, which is whether the arrival of this point in the public domain was as a result of a pre-briefing—you talked about a media strategy—or a leak.

John Griffith-Jones: I am not sure about either word. What we actually did was wrote to the banks, which is what we would normally do, and we wrote to Mr Garnier, which I do not describe as a leak and nor do I describe as a pre-briefing. If you have been doing something with someone and you stop doing something, you have the courtesy to tell them what you are going to do.

Q98 Chair: Either it was put in the public domain by you or it was not. Let us try that question. Was it put in the public domain by the FCA?

John Griffith-Jones: It was not done by way of press release.

Q99 Chair: I did not ask that. I might ask that in a minute, but I did not ask that question. I asked you whether it was put in the public domain by the FCA.

John Griffith-Jones: I believe not.

Q100 Chair: Have you asked whether it was?

John Griffith-Jones: Yes, I have asked what happened.

Q101 Chair: What answer did you get? I am not going to bring you in, Tracey McDermott. I am going to address my questions to the Chairman. These questions are exclusively for the Chairman, because the question here goes to the heart of the governance of the FCA and only one person is responsible for that. It is certainly not the Chief Executive—absolutely not the Chief Executive. It is nothing to do with you. It is the job of the Chairman to make sure that you are doing your job properly and what I am trying to establish is what you, the Chairman, have concluded having looked at this evidence.

John Griffith-Jones: What I have concluded—I am sorry to repeat myself—is that we wrote to the banks, we wrote to Mr Garnier, we told the panels and that was that.

Q102 Chair: What you are trying to say, as I understand it, is that it was not planned that this should be put in the public domain, but that it arrived in the public domain as a consequence of one or more of the parties to whom you had passed this information putting it into the public domain.

John Griffith-Jones: That is true.

Chair: That is correct.

John Griffith-Jones: That is what must have happened, yes.

Q103 Chair: Therefore, it was part of a media strategy that it should evolve in the public mind, one way or another, as a consequence of a larger and larger circle of people coming to know about this.

John Griffith-Jones: The letters to the bank are not a secret. If a bank had told someone else, "I've had a letter from the FCA, which says that the study has been concluded", then there was nothing to say that they could not do that, so yes.

Q104 Chair: You were expecting this to appear in the public domain, but not at a time that you had decided would be appropriate, but at a time that others might decide is appropriate.

John Griffith-Jones: We knew that, if you write to someone, if it is likely to go in the public domain, it is likely to go in the public domain within a three-week or certain period. The communications strategy was designed around there not being a big story here, because we are absolutely still obsessed with culture. I am sure you will ask more about this in a moment. There is no question of "abandoning" culture as a top priority.

Chair: We will come on to that in a moment.

John Griffith-Jones: I understand, but you have to go into the mindset of the people. The story that has emerged in the newspapers and the press, as it were, I presume, was not envisaged by the people who drew up that communications strategy. That is a fact.

Q105 Chair: This is a document marked "market-sensitive". Is that common for a document that ended up the crucial document that makes this decision?

John Griffith-Jones: Sorry, I would like to be precise.

Q106 Chair: We are talking about the document that you sent us, which shows that it was a market-sensitive document.

John Griffith-Jones: Is that what was called the ExCo decision? Is it the decision paper? Forgive me asking: is it the decision paper or the ExCo paper?

Chair: It is the decision paper, which I have in my hand.

John Griffith-Jones: If I could find it, it is marked "controlled distribution" at the top.

Q107 Chair: This is a market-sensitive document, is it not?

John Griffith-Jones: We have four tiers of sensitivity of documentation. Controlled distribution is the second from the top.

Q108 Chair: Is controlled distribution not a market-sensitive document?

Tracey McDermott: No.

Q109 Chair: You seem unsure, Mr Griffith-Jones.

John Griffith-Jones: That is because we have four categories of sensitive information.

Q110 Chair: It is a controlled distribution document. You took a decision on the basis of a controlled distribution document. You took a decision to let this appear in the ether.

John Griffith-Jones: Can we just distinguish? The document was prepared before the decision was made, so at that stage it was sensitive as to what we were going to do.

Q111 Chair: The fact of your having written to the banks had made it no longer.

John Griffith-Jones: That document, I think, is dated or was prepared on 9 October, so then there was a decision and a winding-up of the project. Then there was a letter to the banks saying the project has finished. It was a normal timeline.

Q112 Chair: It ceased to be sensitive at the point at which you started notifying people about it.

John Griffith-Jones: Yes, because it is a fact. If we are not doing it, we are not doing it.

Q113 Chair: I see. Were you informed about the decision at the time?

John Griffith-Jones: The chronology is something like as follows. That document was prepared on the 9th, if I remember rightly. The decision that Tracey actually took was on the 19th. The board met on 22 October, i.e. three days later. At that particular board meeting, we had a three-monthly pack of everything that is going on and the board reviews the performance. We had talked through the pack and we were given, from memory, a verbal update.

Chair: This is the board.
John Griffith-Jones: The board, yes.

Q114 Chair: Was it a board decision?

John Griffith-Jones: No. The decision had been taken. We were being told what was going on.

Chair: Ex-post.
John Griffith-Jones: Yes, it was three days ex-post.

Q115 Chair: Who took the decision to hold the culture review?

John Griffith-Jones: The decision to hold the culture review was contained in the business plan. The business plan is approved by the board.

Chair: It was a board decision to hold the culture review.
John Griffith-Jones: Yes and no.

Q116 Chair: Is there anything else in that document that is not a board decision?

John Griffith-Jones: The board approves this whole document.

Q117 Chair: Is everything in there a board decision or not?

John Griffith-Jones: The board approves the plan in total, in the same way as a board approves a budget. That is not to say that the board has dug into every sentence in the document. The board would have been asked. I do not have total recall of this, but we had on the list time to do, say, 15 thematic projects a year. Obviously this is a time horizon of a March-to-March period. The ones that are going to begin in April will have been very clearly scoped out and the ones that are not going to begin until the next December will not have been scoped out at the time of writing, but this is in the interests of transparency and trying to lead the market in an appropriate way.

Q118 Chair: Just to be clear, anybody sitting on the board thought that there was going to be a culture review.

John Griffith-Jones: Anyone sitting on the board thought there was going to be thematic piece of work around culture, yes, not exactly what that would entail.

Q119 Chair: They discovered on 30 December, as a consequence of letters sent to banks but not sent to the board, that it was not.

John Griffith-Jones: No, that is not what I said. The board was told on 22 October, immediately after the decision was taken, but the terms of being told were that we have a better way of skinning a cat. We are obsessed with culture. I do not think we even had the detail.

Q120 Chair: Just to be clear, I have not got the chronology quite right, but the fact has not altered. The fact is that the board took a decision to hold this review and then that decision was overturned, without recourse to the board, by the executives.

John Griffith-Jones: Sorry, I do not want to play with words, but I think it is really, really important. The board agreed, at the time of the business plan, that to do a piece of work on culture was an extremely good idea, and I did too. If you read my front piece to this, the only specific review that I mention, which was not knowing that this was going to be happening, was that culture was important, so we were all on culture. I do not think, from memory, that we knew exactly what that piece of work entailed. In fact, I know that we could not have known, because Tracey, in her then role as head of supervision, was going to be responsible for scoping it and it had not been scoped at that moment. Exactly what this piece of work was going to be was yet to be decided.

By the time they got to deciding it, it was not what some people have represented, in the newspapers, as a grand inquiry into culture in banks. It had been narrowed down to a review of middle management and the freedom to speak up in the banks, which were taken at the time as being two good indicators of how the culture was. That decision was taken at the executive level. I was only aware of that in preparing for this meeting, but I would not have particularly expected to have been told that that was going ahead. They did part one of the work and they came to the conclusion—and again I am telling you what I now know—that the way that the work was structured was not going to lead to the best way of making progress on culture, and so the decision was, and I paraphrase a bit, to put the work on culture back into individual firms' supervision. It seems to me like probably an excellent idea, but certainly a reasonable one.

Q121 Chair: We have been going on this for some time. With the advantage of hindsight, do you think that, given it was a board decision to hold the culture review, it might have been a good idea for the board to be given the opportunity to vary that decision?

John Griffith-Jones: I do not, given what the variation was. You can hypothesise as long as you like, but the intention was to improve culture in banks. The review is a means to an end.

Chair: You are now repeating yourself. I am trying to home in on the key point, it seems to me.

John Griffith-Jones: It should not be expected to have variations in what should be done coming to them. I would not expect that.

Q122 Chair: You are happy for board decisions to be overturned by the executive.

John Griffith-Jones: I am sorry, Mr Chairman. I actually do not accept that. The board took a decision in principle to do some work on culture. We were advised by the executive that the thematic was the way to go and were subsequently advised that supervision was a better way to do. It seems okay, and with hindsight seems okay too.

Q123 Chair: When you took this decision, Tracey McDermott, did it cross your mind that this was something that you should discuss first with the board, bearing in mind it had been a board decision to hold the culture review?

Tracey McDermott: No, it did not.

Q124 Chair: Why not?

Tracey McDermott: The way in which the practice works and the way in which the practice has always worked is that what we put out in the business plan is what our intentions are at that time. That includes a number of pieces of work. Obviously during the course of a year, things will change. The circumstances will change and the executive makes the operational decisions about whether we should be taking forward things or not, or doing them in a different way, bearing in mind our obligations to try to use our resources in an effective and efficient way. We thought it was appropriate that the board should be notified; the team thought it was appropriate that I, as the CEO, should make the decision, because it was something that had been mentioned in the business plan. I think that that was an entirely appropriate way to do this.

Q125 Chair: Have you overturned any other board decisions since you became acting Chief Executive?

Tracey McDermott: I have not overturned any board decisions since I became Chief Executive. The board decision was to issue a business plan that set out our intentions, as to the work we would do at that point in time. Those intentions changes over time. The board was notified of that, as John says, just a few days afterwards, but this was not a significant change of focus. It was not a decision that we were not interested in doing work on culture. It was a decision that we thought that the way we had intended to do it, the way we had thought at the time of the business plan, was not going to be the most effective way of doing it and was going to duplicate other people's works.

Chair: I think we are still in the foothills of exploring this issue.

Q126 Rachel Reeves: It is interesting that no public statement was made on the decision to chop this review. Do you think that it is in the public interest to know what work the FCA is doing?

Tracey McDermott: Just to follow up on the point that was made earlier, there was nothing secret about the decision to drop the review. We communicated with the banks to whom we had sent information requests. We communicated with our panels. We communicated with one of your colleagues. We communicated with the Banking Standards Board and the British Bankers' Association. There was nothing secret about it. It was simply an operational decision that we did not think this was the right way to take this piece of work forward.

The normal practice is that, in the annual report every year, we report on what progress we have made against business plan commitments and, if you look back at annual reports in the past, some of those will say, "Actually, this piece of work has been deferred". Some will say, "We have decided not to do it. We have taken it forward in a different way." That would have happened in the entirely normal way. Clearly in the light of the attention that this particular decision has generated, we will and we are considering internally whether we need to have a different process in relation to things that are in the business plan, in terms of what we communicate.

Q127 Rachel Reeves: There was a report in November 2014 into the way in which the FCA communicates, which addresses some of the shortcomings. Do you think that anything has been learned from that report, in light of what we have just seen?

Tracey McDermott: An enormous amount has been learnt from that report. These circumstances are not analogous to the circumstances that gave rise to the November 2014 report, which was around Davis. This is a different set of circumstances. We communicated it in the way that we thought was appropriate. As I said, there was no secret about this. This was not something we were doing behind closed doors. In the light of this, we are obviously considering whether or not we need to have a more formal communication on a more regular basis about progress on business plan. That is normally done in the annual report, which comes out every year, but we are considering whether we need to look at that again.

Q128 Rachel Reeves: I accept that there is a different set of circumstances to Davis. However, I think that there are interesting and important parallels, so I would ask again: do you think that it was in the public interest to know that this review was being scrapped? Secondly, would you not recognise that there would be market sensitivities in this information that the review was being scrapped?

Tracey McDermott: I do not believe there is any market sensitivity in the fact that this review has been scrapped. The document was marked "controlled distribution", which is an internal thing. It can include market-sensitive information in that, but this is not market-sensitive information. We did not view the decision to drop this piece of work as market-sensitive, and I do not think there has been any market reaction to it.

In terms of whether there is a public interest, clearly in the light of the amount of attention that there has been over the past couple of weeks, in relation to this particular decision, it would be difficult for me to say that there was not a public interest in relation to this. That is why I have said that we will obviously need to consider whether or not we communicate differently around the way we take forward business plan commitments.

I am sure we will come on to this, but one of the things that is important is that a lot of the discussion and a lot of the comment have not really been about the substance of what we are and what we are not doing. It has actually been much more around what that means in terms of the context of the organisation as a whole, and so on. That is something that is a by-product of the particular times.

Q129 Rachel Reeves: I would not agree with that. I think that the interest is exactly because of the substance of what the FCA is or is not doing. The reason there is such interest in the scrapping of the review is precisely because there is a lot of interest in what the banks do and the role of the FCA in monitoring what the banks do. In your report, the summary ExCo paper on the FCA's approach to culture, it says that the outcome that you are looking for is that firms will really understand the value of a customer-centric business, driven by their strategic decisions, their daily behaviour, and resulting in outcomes that evidence customers and market integrity really are at the heart of their business. Do you think that that is the case or do you think that more is needed to be done to change the culture of the banks?

Tracey McDermott: Can I just say that that particular paper, which has definitely come into the public domain through a leak, because that was an internal document, was written as part of the decision making to say that, actually, we had decided to do a very specific piece of work to look at cultural indicators in banks, looking at two narrow points, as my Chairman has already said? We decided in July that we should pause and consider whether that was the right way to do it, based on the information we had and based on work that was being done by other parties, in particular the Banking Standards Board, which was looking at precisely the same issue. The paper that you are referring to talks about looking at the totality of this—"Let's look at the best way in which we can achieve that outcome"—and sets out a number of things that we need to do to do that.

In terms of the vision we want for the culture in banks, I would say that there has been progress over the past few years but, as I have said before and will say again, we are not there yet. There is still considerable work to be done to make sure that there is a sustainable long-lasting culture embedded within banking and financial services, where people are focused on the interests of customers and interests of markets. That is absolutely right; there is further to go. Actually, if you talked to banks, they would also accept that there is further to go.

The key question for us as a regulator is how we best ensure that progress is maintained and momentum is maintained towards that. How do we best use what we can bring to it to ensure that that happens and that culture change continues? We made the decision, I made the decision, that I did not think that continuing the thematic review was the best way to achieve that.

Q130 Rachel Reeves: In light of what has happened since the decision to scrap this review, if you could start again, how would you release this information into the public domain?

Tracey McDermott: It is always very difficult to answer a hypothetical question with the benefit of hindsight. One of the challenges is that this has become, as I said at the beginning, wrapped up into a whole series of questions about independence. It has also become wrapped into a whole series of questions about the Chief Executive, succession and so on. Would we have put out an announcement? Possibly, but it is very difficult to say that hypothetically. As I have already said, one of the things we are already considering is whether or not we should release information in a different way. If we had put out an announcement, it would have been a very short one-line announcement saying, "We have decided not to take this work forward. We are going to work in a different way."

Q131 Rachel Reeves: Do you not think that consumers and taxpayers deserve a little bit more information about the decision? In fact, perhaps with the benefit of hindsight, you might have a better idea than just putting out a one-line summary. I would have thought that, given your salaries are paid out by taxpayers and you are supposed to be helping improve the functioning of markets, you would want to give some information on why this review was scrapped and what the FCA is going to do to achieve the outcomes that perhaps we would all like to see, but might not be seeing.

Tracey McDermott: One of the things that you will have seen in the paper that you are referring to is that one of the things that we talk about quite a lot is the need for communications around culture, so communications and speeches, engagement with academic bodies, engagement with industry bodies and engagement with consumer bodies. That is part of the plan.

The reality of this decision is that the way in which you are portraying the impact, in terms of what consumers want to understand, suggests that this decision was something that was fundamentally changing the FCA's approach to what we were doing in relation to thinking that culture in banks was important or trying to drive and continuing to drive the momentum of culture change. That is simply not what the position is or was at the time. Why I say it is difficult to answer a hypothetical question in hindsight is because, knowing what I know now, even though this would be seen as something that was a significant change of direction by the organisation, clearly if you knew that in advance, then you would have set out clearly that this is not a significant change of direction, but that was not how we expected it to be seen.

Q132 Rachel Reeves: I have two concerns with that. First of all, I find it very surprising that the Chief Executive of the FCA does not understand why both taxpayers and consumers would be disappointed by the decision and want a little bit more information. Secondly, I do not think I am asking you a hypothetical question. I am asking you if, with the benefit of hindsight, you would have done things differently, and you seem to be saying that you find it surprising that people have reacted in the way they have. I would have thought that, with the benefit of hindsight, you might understand why people have reacted in the way they have.

Tracey McDermott: The issue with the benefit of hindsight is that this particular decision has been read as being a decision of a different kind of nature to the decision that it actually was, which was a decision not to carry out a specific piece of work, because we thought that it would not achieve the objectives that we had set out to, which was part of a much wider programme of work that continues.

Q133 Chair: Just to go back to one point on which I was having an exchange with you, Mr Griffith-Jones, a moment ago, you baulked at my suggestion that this was market-sensitive information. I have in front of me now—it has just been put in front of me by a helpful staffer—the FCA response to the Davis Review. Your own response says that controlled information is information that could cause significant and potentially long-term damage to the organisation or to a firm. "Information in this category includes most information considered to be market-sensitive or inside information. Access to information in this category will be restricted to those having a need to know." It does not seem that that is consistent with your information strategy that is sending out these letters to various people, including the banks, in order to let a steadily wider circle of people know about the decision, does it?

John Griffith-Jones: I am going to repeat myself again. While the decision was being made, clearly it is sensitive and needs to be controlled. Once the decision has been made that we are not going to ask any more questions, we need to tell the people concerned and we decided to tell the panels. We have taken a view, rightly or wrongly we can argue about, but we have taken a view that, at some point, we need to tell some people what we have done. By the time we have told them—again I am talking with my hindsight—it was not sensitive by 18 December when we told the banks and people that we had made up our mind and we knew what we were going to do.

Q134 Chair: You have just said that you did not want to tell some people, but another strong recommendation to you was that information of this type should not be put into the public domain without publishing an official statement of your own. You have just ignored that, have you not?

John Griffith-Jones: I am sorry; I do not think we have. We have to decide what sort of information—

Q135 Chair: You have told some people and not others about something that is generally held to be market-sensitive information.

John Griffith-Jones: I am not sure that, by the time was decision, it was market-sensitive. I do not accept that it was.

Q136 Chair: Why was this information judged to be price-sensitive?

Tracey McDermott: It was not judged—

Chair: I am asking the Chairman.

John Griffith-Jones: It was judged to be controlled distribution. I can only tell you what I have read and I know, on the top, it says “controlled distribution”. I can understand why documents in our building, at the time the decision is being made, when the decision is not clear, are treated as controlled distribution. It is important that they are. Once the decision has been taken, it moves to comms and there is a comms plan attached to the decision paper. The comms plan, for what it is worth, is what we did. People can disagree with it either in advance or with hindsight. I entirely accept that.

This is not a leak. We take—I will not say thousands. That is probably an exaggeration. We take hundreds of decisions during the year, because I have 3,000 people working for me all taking decisions. I do not put a press release out on every decision that we take. I accept you could accuse us of asking if we would do it differently, and you can see hypothetically that you would, but I do not think that this is a wrong decision. I am sorry, Mr Chairman; I just do not accept that this was a leak, in any sort of way. This was our way of doing things.

Q137 Chair: I was not asking you about a leak. I was just pointing out to you that replying to my suggestion that this was market-sensitive information with the response that it is not—it is controlled information—is a pretty disingenuous reply. Controlled information is that category of information that can cause significant and potentially long-term damage to the organisation or to a firm, which is generally held to be market-sensitive information.

Tracey McDermott: So—

Chair: I am asking the Chairman; these are questions of great importance of governance. That is the fourth time that you have tried to intervene.

Tracey McDermott: I apologise.

Chair: I will not ask you not to intervene a fifth time. Chairman.
John Griffith-Jones: You have the documents in front of you and I do not. I am very clear in my mind what market-sensitive information is, particularly as a result of Davis. I am sorry; I do not have a technical brief here, but I am completely comfortable in my mind, as the Chairman, reviewing this ex-post, of the sequence of decisions and the fact that this was certainly restricted within in our building. There was no one question of anyone outside being told anything, until such time as a decision had been taken. Once the decision had been taken, which as we said was in October, after that, at some point a communication strategy was required and the communication strategy adopted was, as we have said and I stand by the fact, a reasonable one. It is not the only one and it may or may not have been the best one, but it was not something that I, as Chairman, felt that the executive had got completely wrong.

Q138 Chair: This was a thematic review we are discussing here, was it not?

John Griffith-Jones: Yes.

Q139 Chair: Another conclusion of the Davis Review was, in fact, he concludes—it seems perhaps he was mistaken—that the FCA has learned from these events. That is the thematic review that was leaked and generated market gyrations in the insurance market: "The FCA has learned from these events that it should not have any working assumption that information relating to the commencement of thematic reviews is not price-sensitive". It does strike me that the handling of this issue, where it is absolutely clear from the Davis Review, what followed it and your response to it that this should be treated as market-sensitive—it then should have been subject to an official statement, but none of this practice, which was only so recently established as a consequence of the Davis Review, was set aside in this case.

John Griffith-Jones: I do not think we are going to agree on this, because I am thinking that it was handled entirely appropriately, relative to the sort of information it was. If you look at the underlying information in the Davis incident, it was highly price-sensitive and was proven to be, hence the whole thing. This was judged not to be by the team, turned out not to be, needed to be communicated in some form or fashion, and we adopted the methodology that we did. Can I on the record say, "Have we learned something from Davis?" Boy, we have learned lots from Davis. That is for sure. I slightly want to, on behalf of the organisation, push back and say that this may be another decision with which people are disagreeing, but I promise you that it is not another learning from Davis. It really is not.

Q140 Mr Baker: I know we have all listened extremely carefully to what you have said. If I was to play back what I have understood, it is that you had thought you had made a relatively minor decision, which did not substantially change the direction of your work and that this whole thing has blown up out of all proportion. Is that reasonable?

John Griffith-Jones: Not on its—sorry.

Q141 Mr Baker: Perhaps I could ask Tracey McDermott, because that is what I understood you to be communicating: that the reaction to this decision is out of proportion to the substance of the decision. Is that your view?

Tracey McDermott: The reaction to this decision is partly based on a concern that the decision implies a change of direction by the organisation, which is not what this decision was about. This was an operational decision about a particular piece of work.

Q142 Mr Baker: It has been interpreted as a change in direction for the organisation and that is why it has blown up in this way and we are spending so much time on it. Do you accept that? Is it the case that you think the reaction to this decision is out of proportion to the decision that was made?

Tracey McDermott: What has happened is that this decision has become something that has been, as I think I have probably already said, looked at in the context of a whole host of other questions, including Martin Wheatley's departure and including the recruitment of the Chief Executive. It has been said, "What does this say about the organisation and where it is going?" The importance it has taken on is something that is beyond the actual specifics of the decision.

Q143 Mr Baker: I am going to take that as a yes, beyond the specifics of the decision. I want to ask John Griffith-Jones as Chairman how it can be, after all the organisation has been through, that there can have been such a mismatch between the organisation's assessment of how the media would react to a decision and the actual reaction that has been received. It seems to me that your communications operation is still in disarray, just from the evidence of the extent of the interest in this matter.

John Griffith-Jones: There is no doubt that there is a lot of interest in this matter, but there is a lot of interest in absolutely everything we do. This actually makes our decisions as to what we do in any one case somewhat complicated, and it just does. I believe that, had we approached this a different way, had we put out a statement that said we had decided to discontinue this piece of work, and had we actually gone as far as putting out—which I do not think we would have done, by the way—the document that we put out in response to the FOIA request, which we are using as shorthand, i.e. a fully explained document, I would rather expect, but you may disagree, that the level of press interest in this would have been exactly the same.

I actually welcome the fact that people want to know what we are doing and want to know what we think about bank culture. The fact that we are not going to publish the results of this particular review, or there are no results of this review to publish, does not mean to say that we are not going to tell you or the public, at our own time and in the way that we think is the most effective, what we think of culture and what we think should be done to improve it.

Q144 Mark Garnier: Tracey McDermott, the Chairman recently talked about who was informed, in fact through a ring-around on the 17th or the 18th. It was not until a couple of days ago that I learned that I was the only Member of Parliament who had been called on this rind-around. Why was I called and nobody else called, flattering though it is?

Tracey McDermott: The reason you were called was because you had had some previous correspondence with Martin Wheatley specifically about the thematic review. We thought it was appropriate to inform you, because you had expressed a specific interest in that piece of work and we had told you that it was happening, that we should say that, actually, it not happening. That was the only reason for it.

Q145 Mark Garnier: It was not a decision to inform those in the Treasury Select Committee specifically, as I understood. I think it was * who phoned around; what position is * within the organisation?

Tracey McDermott: She is one of my colleagues in the Parliamentary Affairs team. The Parliamentary Affairs team are the primary people who deal with MPs, both those on the Committee and otherwise.

Q146 Mark Garnier: It was not her who was doing the phone-around with the banks. As I understood, it was a telephone call to the banks, rather than a letter.

Tracey McDermott: No, there were phone calls to banks and there were letters to the banks. Can I just run through the communications chronology? The decision paper came to me in October, as we have talked about. Following the decision paper, there was then a series of discussions with our statutory panels. There were phone calls with each of the banks individually, which had provided information for the first phase. That was not all of them.

Q147 Mark Garnier: Who would that have been at the banks? Would that have been the compliance officer as the point of contact?

Tracey McDermott: It probably would have been the primary person with whom we had been dealing in relation to the specific bank, which in some cases may have been compliance, but is probably more likely to have been somebody in the business. I can give you that information if it is of interest, but that would have been that. Those conversations actually happened during the course of the middle of November. There was then a formal letter that was sent out to the firms and again you had a copy.

Mark Garnier: They already knew it in the middle of November.

Tracey McDermott: They knew the feedback to their firm in particular, so what we had found that related to them and we told them, at that point, that we were considering what we would do about the review, and then we wrote to the them formally on 18 December, when we communicated to them at that point that we had decided not to take the review forward.

Q148 Mark Garnier: That was having spoken to me, I think, on the 17th.

Tracey McDermott: I believe the conversation with you was on the 17th.

Q149 Mark Garnier: I want to follow up Steve Baker's question. As I took the telephone call from *, this was certainly portrayed to me as something that was a change of tone of this review. Instead of publishing a written report at the end of it, this was going to be done on the basis of an interaction between the regulator, between the FCA directly with the banks, about their own internal approach to standards and to the management of incentive schemes, rather than necessarily using that data to publish a report. That is basically it, is it not?

Tracey McDermott: The issue is that we were looking, as I said, specifically at two indicators in the thematic review. We were looking at promotion and appraisal decisions in relation to middle management, and we were looking at the question of how people speak up. If we had concluded the piece of work, we had done phase one, which is a sort of discovery phase, as we normally do. We had got back some information that we were assessing and also internal information. That made it clear that it was going to be difficult to produce something that was actually of significant value, in the sense of producing something that would assist banks in pushing things forward in terms of good and bad practice, because individual firms have individual different approaches and ways of doing things. Actually, a report that is a snapshot and is very high-level is not a particularly useful use of our time, so we decided that that was not the best way to do that piece of work.

We were also conscious—and this was something that came to light at the end of July—that the Banking Standards Board, which as you know was established in May of last year, was doing a piece of work with banks and had actually sent out very similar information requests for looking at similar issues. We were very conscious that we would potentially be duplicating work that was being done by someone else as well. Those were the reasons that we decided we should not do this.

We thought that the best way to take it forward was partly through taking forward with individual firms, through their regular supervision, the work we do with them to continue pushing forward the culture work. We also wanted to build on work being done by other bodies, such as the Banking Standards Board, the FMSB, the G30 group and so on. We also wanted to do more, touching on the point made earlier around communication, to use our ability to convene people to have discussions about what is the best way to maintain culture change momentum.

Obviously all of those sit alongside what we do on a day-to-day basis as a regulator, in terms of authorising, supervising and enforcing against firms, all of which actually have culture as one of the key drivers in relation to that. You will have seen, in the numerous things that we have published, including over the past few months, references to culture, references to incentives and, alongside all of that, there is the implementation of the accountability regime, which again is all driven by culture. This is a very big piece of work we do and this is just one aspect of it.

Q150 Mark Garnier: Nonetheless, you would agree that a published report on a thematic review would have a huge amount of value to people like the Treasury Select Committee and to the Banking Standards Board, in terms of what they could draw from your conclusions to supplement their work.

Tracey McDermott: We did not think that it would have a huge amount of value.

Q151 Mark Garnier: Why not? Having embarked on something like this, clearly you are dedicating resources to it. You are dedicating financial resources, as well as staff resources, to something that you think has a certain amount of value and, at some point, you change your mind. I completely take your point that you are still effectively trying to drive better standards through direct contact with the banks and working with their internal departments but, nonetheless, the value of this was the wider context, even if it was anonymised so you did not necessarily have bad comments about individual banks, which of course would then be price-sensitive, and I appreciate that. Even if it was anonymised, nonetheless, everybody would be able to see and have great clarity of what the regulator is doing in terms of championing banks on behalf of consumers and, where there is best practice, where other financial institutions that are not necessarily banks could benefit from this, for example the insurance industry.

Tracey McDermott: You are right that a common output, not an inevitable but a common output of the thematic review, would be a report that says, "This is where we have seen examples of good and bad practice". Those are always anonymised, as you say. We concluded that we did not think, partly as a result of the work that we had done in phase one, we would be able to put out something that was sufficiently useful and valuable to make it worth spending the resources and time on doing that. That was the assessment we made.

As I said, we were conscious that there is other work going on in this area. There have been a number of reports on culture, including by the Parliamentary Commission. As you know, there has been a recent G30 report on banking culture, which was published in July. The Banking Standards Board will be publishing work, as part of their annual report on the work they are doing. They have sent individual reports to the firms that are in their pilot programme, which will be available to us as the regulators. There is a whole host of things. We did not think that, through this work, we were actually going to be able to come up with things that would be anything more than statements of motherhood and apple pie.

Q152 Mark Garnier: John Griffith-Jones, how is the relationship between the FCA and the Prudential Regulatory Authority, the PRA?

John Griffith-Jones: It is really very good.

Q153 Mark Garnier: Give me an example of how it is so fantastic.

John Griffith-Jones: It needs to be fantastic. I think you asked us this on our last outing. Especially if we stick with the banks, they are dual-regulated. If we were issuing one set of instructions and they were issuing another on a common theme, it would make their lives impossible and us look disjointed or siloed. The best example I can give you, a current and pragmatic one, is the Senior Managers Regime, where they essentially have requirements around prudence and we have them about conduct. The requirements translate on to the job of individuals and the individuals have to abide by both so, if we were not joined-up, we could make the role of boards or audit committees impossible. Touch wood, we have done a pretty creditable job in keeping that aligned.

Q154 Mark Garnier: How was the FCA consulted by the PRA on the reversal of the reverse burden of proof regime?

John Griffith-Jones: How were we consulted on it?

Mark Garnier: Yes. What was the FCA's input into the decision to abandon the reverse burden of proof?

John Griffith-Jones: From memory, my part of the discussion, which was not that significant but for what it is worth, was with the Treasury, rather than with the PRA.

Q155 Mark Garnier: You spoke with the Treasury and not with the PRA.

John Griffith-Jones: It was going to be a Government piece. As you know, it had to come back through Parliament. That is not to say that we were restricted from talking to the PRA about it. Andrew Bailey attends our board.

Q156 Mark Garnier: Tracey McDermott, at an executive level, can you remember what the conversations were between the FCA and the PRA on that specific point?

Tracey McDermott: The specific question of reversal of the burden of proof was communicated to us by the Treasury, not by the PRA.

Q157 Mark Garnier: You were told it was going to happen.

Tracey McDermott: Yes.

Q158 Mark Garnier: The FCA had no input into the decision to change that.

Tracey McDermott: I am slightly hesitating, because I think there were some trilateral discussions between the FCA, the PRA and Treasury around the question of the Senior Managers Regime and extension, before I was in the Chief Executive role, but certainly we were not consulted on—

Mark Garnier: You were not consulted on it.

Tracey McDermott: No.

Q159 Mark Garnier: We have just heard that it was the Treasury that told you, as the regulator, that the reverse burden of proof was going to be abandoned and so you just had to accept that.

Tracey McDermott: They told us that they were putting something into legislation, which would then go through Parliament. Obviously it is a matter for Parliament as to what is decided.

Q160 Mark Garnier: It was quite a profound decision by the Bank of England and the PRA to do this and obviously went against the recommendations of the Parliamentary Commission on Banking Standards and the Banking Reform Act, so it was a pretty important thing that had a great deal to do with the regulation of banks and the regulation of senior managers. It must have had a direct effect on the FCA and their ability to control bankers.

Tracey McDermott: My understanding is that it was a Treasury decision and not a Bank of England/PRA decision to do that.

Q161 Mark Garnier: It was very well supported when we had the Governor of the Bank of England and Andrew Bailey, who came in front of us. They were very supportive of this and constructed very strong arguments and very reasonable arguments as to why it should have been abandoned. It is just interesting that they clearly had done a huge amount of thinking about this and had contributed to it. There is a reason why I am asking this. I know it appears slightly off the track, but what I am trying to build is a picture of the relationship between the three pillars of regulation and how the FCA is perceived within this.

One of the things about this great debate that has been going on about this particular thematic review is where the FCA sits in the big picture. Looking at this particular review that has been abandoned, we look to see what has happened within the FCA that might have explained a change. We see that, actually, the review was being overseen by a secondee from the PRA, who I think was Megan Butler. It was her who took the decision to not necessarily go ahead with this review. I am interested in both of your opinions, but perhaps, John Griffith-Jones, you first. Do you not agree that that it creates a narrative of an organisation that is not punching above its weight, not even punching at its weight, when it comes to the input of what is going on, in terms of regulation of the banking and financial system?

John Griffith-Jones: No, but here is why. We do conduct and they do prudence. The conduct agenda is really very high. The culture thing I am not saying does not affect riskiness of bank lending or prudential matters, but it affects conduct far more. I think this was our bag. The fact that Martin had been asked to go and Tracey had been asked to be Chief Executive meant there was an immediate short-term need for someone to head wholesale conduct, which without knowing that Martin was going to go we had decided to split. We did not have an immediate person of sufficient seniority to do that. We were extremely grateful. I absolutely was personally involved in this. We were extremely grateful to Andrew Bailey for lending us Megan on annual secondment to fill this hole. That was not some sort of surreptitious implant. We absolutely needed someone.

Q162 Mark Garnier: Sure, but the question is whether the thematic review would have been cancelled had it not been a PRA—

John Griffith-Jones: I will give you an answer, but I hope Tracey is going to provide it. She took the decision and Megan agreed with her. There were the two heads of supervision and Tracey, and there is no one else more qualified to take the decision, and all agreed. Whose idea it was, Tracey.

Tracey McDermott: I welcome the opportunity to answer this question, actually. Megan is on secondment to the FCA. In her role at the FCA, she is a director of the FCA operating on behalf of the FCA. She is one of three secondees we have from the PRA/Bank of England. There are six people from the FCA out on secondment at the PRA/Bank of England, and we have people on secondment to us from a number of other organisations, both regulator and consumer organisations, and vice versa. That is the way that secondments work. You work for the organisation that you are seconded to.

In terms of the chronology, as I have already mentioned, before the summer, particularly when we found out that the BSB was doing work on a very similar thing, I asked the team to consider, in the light of that, whether or not it was still the right way to go forward. I said, "Can we pause and look at the information we get from the information requests that have come in, and can you consider, as a team, what you think the right way to do this is?" That work happened over the summer. That did not involve me directly. It did not involve Megan Butler or Jonathan Davidson as the directors of supervision, because they had not arrived yet, but it did involve a number of people from across the FCA, including senior advisers.

The recommendation that that team came up with, which then came up the chain, was that, actually, they did not think that the thematic review should continue as previously scoped. They obviously discussed that with Megan and Jonathan as they arrived, and the recommendation that came to me was a recommendation that Megan and Jonathan supported. The idea that, somehow, Megan came in and killed the review is frankly just nonsense. It could not be further from the truth.

Q163 Mark Garnier: Clearly the most important point with this is that one of the big questions that has been asked is if there has been interference from outside organisations, in terms of trying to persuade the FCA to take certain lines on certain things. We have seen a number of events that have happened, like the reversal of the reverse burden of proof. You yourself have put a guillotine on the

PPI claims and when they can follow through. There seems to have been a narrative, which I would not necessarily always agree with, but nonetheless there seems to be a narrative where, actually, the regulators are taking their foot of the gas when it comes to regulating banks. They are easing up on banks. One of the actually quite significant events that has happened, of course, was that Martin Wheatley's contract as a director was not renewed. I gather that his contract of employment as the CEO was not the thing, but it was a technicality on whether he was a board member or not. That was the bit that was not renewed, and he could not carry on being CEO without being a board member, as I understand it.

You have made it pretty clear that there has not been any direct involvement in or indeed any consultation with the Treasury with regard to things like this, so we can probably take it as read that the Treasury probably has not been leaning on you to do things. There have not been Treasury officials leaning on you to do things, but has there been a subliminal desire, if you like, to please the masters by taking some of these decisions, where the inference has been that, potentially, if you do not play ball, you will lose your job or that you may not be given another job, as was being attempted before you pulled out? Therefore, the behaviour of the FCA is subservient to the Treasury, even if there is no direct involvement.

Tracey McDermott: I can absolutely say that all the decisions that I have taken while I have been in this role have been decisions that I think are the right decisions, on the facts as I know them. They have not been in any way influenced by my view of whether or not I want the job. Clearly, we operate within a legal and policy framework that is set out by Parliament, which involves close liaison with the Treasury on a whole host of things, particularly around things like how pensions might work. The Chancellor announced yesterday a duty on us to impose a cap on exit charges on pensions, so there are very, very common interactions with the Treasury. In relation to the operational decisions we are making and the decisions we are making as to what we do and do not do, those are decisions that are being made by us as a regulator, on the basis of what we think the appropriate course of action is.

Chair: Is it on the subliminal point?

John Griffith-Jones: The subliminal point is that we have learned, probably the hard way, that it is impossible to please all of the people, all of the time. Any attempt to please any one constituency, in this case the Treasury, if you want to be a quality independent regulator, is doomed to failure. It would have been foolish to try.

Q164 Stephen Hammond: Good afternoon and thank you for coming this afternoon. I want to return to Mr Wheatley's departure and some of the issues that surround that. Obviously Mr Wheatley's contract was due to expire in March 2016. 17 July last year, the Chancellor announces that he had decided not to renew that contract. Can I ask directly, Mr Griffith-Jones, if that surprised you?

John Griffith-Jones: Yes.

Q165 Stephen Hammond: Does that imply that, up to that point, the board had been happy with Mr Wheatley's performance?

John Griffith-Jones: The board had been happy with Mr Wheatley's performance.

> **Q166 Stephen Hammond:** If you were happy with Mr Wheatley's performance, and given what you have just said in response to the Chairman, did either you or the board, individually in your case or collectively as a board, think about making a public statement about your happiness with the performance or surprise at the Chancellor's decision? One could argue that, had you done that, that would have underlined your independence.

John Griffith-Jones: I can speak personally. I cannot guarantee my board members would have exactly the same recollection, but it was my view that the primary responsibility of the board was to the organisation and that it was the prerogative of the Chancellor to take the decision that he had taken. In the circumstances, it was our duty to ensure that the organisation carried on with maximum effectiveness and, therefore, it was our duty to make the necessary arrangements, which as it transpired had to be made in something of a hurry to ensure that the show carried on. I do not think it was our place. Given that it was the Chancellor's decision and that is how Parliament set things up, as to whether to reappoint Martin come March—and, to be very clear, that was the decision—it was not for us to say if we did not agree.

> **Q167 Stephen Hammond:** You do not think it would have been helpful to your perception as an independent regulator to have made any public statement whatsoever.

John Griffith-Jones: Would it be marginally helpful to our reputation of independence? I suppose that is plausible. Would it be deeply unhelpful to the conduct of good regulation? Yes, definitely.

> **Q168 Stephen Hammond:** Even if I accept that point, I refer you to your earlier answer to the Chairman about the morale of the organisation. Clearly you had hinted very strongly that Mr Wheatley enjoyed the confidence of those working for him. Therefore, if you take that combined with your answer to me about the effectiveness of the organisation, Mr Wheatley clearly enjoyed that support. By his departure, the morale of the organisation was being affected. Yes or no?

John Griffith-Jones: Yes.

> **Q169 Stephen Hammond:** You still do not think it was appropriate to make that remark.

John Griffith-Jones: No.

Q170 Stephen Hammond: Last summer, the Chancellor of the Exchequer made the comment in a speech that a lot of the action being taken had "eroded shareholder reserves" and yet "those guilty of misconduct had remained untouched". Do you think that was an implicit criticism of either the FCA or Mr Wheatley?

John Griffith-Jones: No, I do not. This whole question of individual responsibility arose out of the crisis and the PCBS report. The Senior Managers Regime is designed to deal with it. Tracey should answer this in detail, because she was head of enforcement and will tell you about the complications of bringing individuals to account under the previous regime. I do not think that that is a sense of criticism personally.

Q171 Stephen Hammond: You do think that what the Chancellor was saying effectively underlined his announcement of a new settlement for the City.

John Griffith-Jones: Forgive me, but he did actually say that he thought Martin had done a very good job—I do not have his words in front of me—but he wanted a change for the future. He absolutely said, and I was in the Mansion House the night he said it, that he intended that conduct needed to be improved and he wanted a tough conduct regulator. If he had not said that, then I might have said something, to be honest, but I really took that that our job has essentially not changed. If the conduct of the banks—not just the banks but all the firms we regulate—really improves, then the need for us to be in the public domain so often would diminish, but it would be a good result with the right reason.

Q172 Stephen Hammond: I do not think that there is any question mark that any of us around this table, or indeed yourselves, would demur from the view that there needs to be a tough conduct regulator. It was a question of whose and which conduct was being properly regulated. Do you think that was fair?

John Griffith-Jones: I am not sure I follow exactly.

Q173 Stephen Hammond: Clearly the Chancellor's impression was that a number of individuals had not been properly regulated or, directly quoting him, "those guilty of misconduct had been left untouched".

John Griffith-Jones: I think we all agree with that, actually, in the light of subsequent events, but the time of most of the carryings-on that Martin was brought in to sort out had frankly been pre his appointment. Most of the people that the Chancellor or the public are implicitly talking about were at the time of the crash and shortly thereafter, and that was before Martin arrived.

Q174 Stephen Hammond: On making the announcement on 17 July, the Chancellor said the FCA needed new leadership. If he enjoyed the confidence of the board, why do you think the Chancellor said the board needed new leadership or the organisation needed new leadership?

John Griffith-Jones: If I may, that question is best directed at the Chancellor. Clearly Martin had done a tough job. He was there for three years. He had not done three years as the Chief Executive, but he was there in the run-up. The Chancellor is faced with, "Do I reappoint this guy for another three or five years?" or whatever it would have been, yes or no, and he made a decision not to.

Q175 Stephen Hammond: The implicit view from that response is that you do not think the organisation needed new leadership.

John Griffith-Jones: No, that is not fair. Whether he thought it needed new leadership that day or whether he thought that the next three years should be dealt with by someone different, which is what I took it to mean, he is in his right to do that.

Q176 Stephen Hammond: My point was that, given your answer, you actually do not think it needed new leadership. That was the implicit implication I took from what you said.

John Griffith-Jones: What I definitely did think, and I said so at the time, was that Martin had done a really good job in certainly somewhere between difficult and brutal circumstances, up to that moment. As far as I was concerned, Martin would be taking a decision, but not on 17 July for sure, about how much longer and what he wanted to do. He was somewhat pre-empted by the Chancellor having taken his decision.

Q177 Stephen Hammond: Let us leave the point about new leadership. Flipping it on its head, Mr Wheatley said there was "unfinished business" at the FCA. Would you like to give the Committee a sense of what you think that unfinished business was?

John Griffith-Jones: I know Martin pretty well. I am pretty sure I know what he meant, but it is always dangerous trying to interpret other people's words. As far as he was concerned, the job on getting good conduct firmly embedded in the industry was not complete, but we needed to retain the tough approach that we had adopted under his leadership for another X years. I do not know how long, but for the foreseeable future anyway. The job was not finished, in the sense that the culture had not changed to the appropriate stage. I do not know whether he was thinking of culture specifically.

Q178 Stephen Hammond: His view was that there had not been a tough enough culture embedded in the organisation or rather that the organisation had not been allowed to be tough enough with the financial services industry.

John Griffith-Jones: No, his view was that the culture in the banks had not yet changed. Changing culture in any organisation is, I am sure you all agree, not quite as straightforward as the chief executive standing up and saying, "Let there be good". It takes a little longer than that. The crucial thing from his perspective was that we had to keep the pressure on the leadership to make quite sure that this was driven right the way down the banking organisations. Reinforced by the banks' own admission, that process had not yet been complete.

Q179 Stephen Hammond: Do you think that one of the reasons behind the Chancellor's decision was real concern about the difference of varying sectors of the financial services market and how the FCA was perceived in that market? Where it may or may not have been tough enough with the banks, certain other areas of the market had lost confidence in the market.

John Griffith-Jones: I think you raised this with us before, or one of you did.

Stephen Hammond: I did.

John Griffith-Jones: We do an annual survey of what the firms think of us, which we publish, by the way. I hope you have seen that. I think I know where you are coming from, which is around the IFAs. Actually, we get much better ratings from the IFAs than we do from the banks.

Q180 Stephen Hammond: Actually, it was about the big investment management organisations. At least three of the largest ones have expressed complete lack of confidence in your organisation at the moment.

John Griffith-Jones: Forgive me being a little trite, but I can assure you that, in the three years that I have been here, the three largest banks have done the same thing as have the three largest insurance companies, whenever they do not like something that we are doing. When we are doing something that affects the way we operate, they do get quite aggressive with us. I think that is allowed. We do not have to be aggressive back, but we do have to be very, very independent.

Stephen Hammond: Just going back, I have two last questions about Mr Wheatley, which I will combine as one question, so I can get away with it with the Chairman.

John Griffith-Jones: I will answer them both simultaneously.

Chair: ***Can we have a quick reply?***

Q181 Stephen Hammond: Can I just ask directly, first of all, when Mr Wheatley decided to resign, who in the board agreed that he would not see out his full contract? Secondly, there have been some changes to the organisation since he left. Can you reassure this Committee that the successor to Mr Wheatley will have the opportunity to run the organisation in a way that he thinks is fit?

John Griffith-Jones: The answer to the second one is yes, definitely. If we do it right, they should do it as they see fit. Who took the decision that he should go immediately? It was a collective decision, but he felt it was very difficult to carry on and we, the board, if he felt like that, were inclined to agree with him.

Q182 Wes Streeting: Tracey McDermott, do you know why it was that it was the Chancellor, rather than the FCA, who announced on the radio that you wished to withdraw from the process to find a permanent successor to Martin Wheatley?

Tracey McDermott: It was not a planned announcement. The Chancellor was being interviewed about something else and he made the point.

Wes Streeting: I was listening.

Tracey McDermott: I was not, but I heard about it quite quickly afterwards. I had communicated my decision to the Treasury in early December. I had communicated my decision to my immediate executive team over the course of a couple of weeks prior to the Chancellor's statement on the radio, but we had not made an announcement to the organisation. It is unclear as to whether there was some confusion as to who knew what in the Chancellor's mind, but it came out during his interview in a way that was not planned.

Q183 Wes Streeting: Were you happy for the Chancellor to discuss your decision to withdraw with the media in that way?

Chair: You could easily answer that yes or you could answer no.

Tracey McDermott: It rather threw the day's plans, as I had not anticipated that I was going to be making announcements to staff. Without sounding personal, it is a big issue for your team when there is a change of leadership, and it would have been preferable for it to be announced in conjunction with announcing who the new Chief Executive was going to be. That did not happen, so that threw the day. I was not exactly delighted about it, but these things happen.

Q184 Wes Streeting: Did you discuss your application with the Chancellor himself, at any point?

Tracey McDermott: No.

Q185 Wes Streeting: Did you consult with people at the Treasury before you took your own decision to withdraw from the process?

Tracey McDermott: No.

Q186 Wes Streeting: At what stage did you withdraw from the process?

Tracey McDermott: I communicated my decision to withdraw from the process to John Griffith-Jones, who communicated it on the same day to the Treasury, on 9 December. I had told John probably about a week or so before that I was considering whether or not to withdraw, and so John communicated that to the Treasury.

Q187 Wes Streeting: What do you intend to do next?

Tracey McDermott: I do not know.

Q188 Wes Streeting: John, just coming to you, given that one of the big questions hanging over the FCA is about independence, what signal do you think it sends to the public and to the sector that it is the Chancellor who is taking it upon himself to make decisions mid-process and making announcements mid-process about who is in and who is out? Do you think it gives the right impression that it is the Chancellor, on the *Today* programme, who is making announcements about who is in and who is out of the process?

John Griffith-Jones: I am with Tracey; it was not an ideal moment. I was in the dentist's chair; I never got out of it so quickly. It was a good excuse, but these things happen. The substantive and important point is that we get a really strong successor. I have to say—I am going to say it anyway—that Tracey has done a really excellent job as Chief Executive. We were in a tight spot in the summer. It has worked really well, but we now need a full-time replacement. That is the Chancellor's decision. Once he makes it, I have no doubt the organisation will get behind the new leadership, and I hope that this Committee will get behind us as well because we need a bit of support and confidence in us to do our job.

Q189 Wes Streeting: Tracey, I meant to clarify one of my previous questions. When I asked what stage you were at in the process, I was not thinking so much in terms of dates. At what stage in the selection process was it that you chose to withdraw? How far had the process itself gone?

Tracey McDermott: The process itself had gone quite a long way. I had been interviewed. It was entering the final stages and I decided that it was not appropriate for me. I did not want to allow my name to be put forward any further in the process.

Q190 Wes Streeting: Do you think you will stay at the FCA in the longer term?

Tracey McDermott: I do not know.

Q191 Wes Streeting: John, just coming back to you, one of the concerns around the very early round of questioning that we had, particularly around the issue of the banking culture review, was you were asked whether or not this was a board decision. Your answer was yes or no. You then, in a later response to a question, highlighted the fact that the culture review was seemingly so important that it was a priority that appeared in your foreword, or it was alluded to. Yet then in a subsequent answer, you did not seem to have a great deal of clarity about what exactly this review entailed.

Can you therefore understand why not only was the manner of the communication of the decision to scrap that review greeted in the way it was, but also I am sure I am not the only Member of the Committee who has some concerns about the extent to which you did not seem to have a grip on as Chairman a piece of work that was deemed so significant that it appeared in your foreword, in terms of what that would look like, how important it was and why it was being refocused or dropped? Listening to some of Tracey's answers about the way in which the review was refocused and seeing some of the FCA's public comments, I could imagine a communication strategy, whether or not it would be successful, that says, "We are refocusing this piece of work because we think that this will be more effective." Instead, we had a complete dog's breakfast in the media at the time. I am not particularly reassured by some of your answers as Chairman about the extent to which you are on top of the work of the organisation and a piece of work that was so important it appeared in your foreword.

John Griffith-Jones: What appears me in my foreword—forgive me if I implied that I was a master of the detail.

Q192 Wes Streeting: Did you write the foreword?

John Griffith-Jones: I did actually, and it has stood the test of time, at least in my view. Seriously, I think culture is absolutely important. As I said, there are 15 or 16 thematic reviews scheduled for the year, some of which are fully fleshed out, because they are about to start, and some of which are not. They are what I call important placeholders. They are more than just an idea, but we do not know exactly what is going to be done. I am strongly supportive of what I know is going to be done. That is where we were. This was published on 1 April, so that was the state of mind then.

I have studied culture quite a lot in my career. The issue around doing a thematic review, which became apparent, I presume—in fact I now know, having read the thing—is that there is no such thing as a good culture. Culture is not on a linear scale, where you can say, "Bank A is good and Bank B is bad." There are multiple dimensions of culture and it is perfectly up to the banks to choose, within reason, what sort of culture they wish to promote and then, having decided that, to put sufficient controls around the consequences of so doing. For example, you can be an individualistic culture or a team culture. You could be entrepreneurial.

This is the point about the thematic. What the team realised and what is not surprising is that you are not able to write this grand conclusion that people assumed would have come out of the thematic review of "This is what the FCA deems a good culture to be". It was not going to come out and I do not think we should say that there is only one culture that is acceptable. We can say what is unacceptable, but it is for banks to decide what their culture should be and what controls, and us to be right on their case around the conduct that results from that.

Q193 Wes Streeting: I think next year the FCA should consider a day other than 1 April to publish its annual report. The final thing I wanted to highlight, in response to one of the questions, is that it seemed to me that the response to the FCA to some of the public reaction has been that this has been misinterpreted, i.e. the press write-up has not been favourable. It looks like we have gone soft, and therefore there is a loss of confidence. I think there are more substantial concerns from within the industry.

I am sure I was not the only Member of the Committee to receive a letter from Affinity, which is the largest independent trade union representing staff working in Lloyds Banking Group and TSB bank. In their letter, one of the things that is related to their concerns about you dropping this inquiry and concerns about the direction it is heading in, they say, "However, we are concerned that some of the old practices of the past are beginning to creep back into banking and will drive the wrong kinds of behaviours". Can you see that it is not just a general public concern that we are worried it is back to the old days of bank misconduct, we are going to foot the bill and banker bashing. These are substantial concerns from people who also work in the industry, who wonder whether the FCA is up to the job.

I am one of the newer Members of Parliament, certainly the newest Member of Parliament apart from Chris around the table. It does concern me when we have people coming to us to say that they are concerned about some of the things going on in banking, but they think that the FCA lacks teeth and independence, so are coming to us as the Treasury Committee. I think you have a wider reputational issue as an organisation about effectiveness and independence. That is part of explaining, but it is not solely driven by the mess that is around this banking review.

Tracey McDermott: Can I say something around effectiveness and independence? I am not aware of whether they have actually written to us, but would certainly be very happy if you could share the letter with us. We do receive information from whistleblowers, from people within firms and so on. We always follow that up. We have done a lot of work on incentives.

Just back to the question about independence and respect, and Mr Hammond was alluding to this in some of his questions, one of the things that I have done in my period as Chief Executive is to recognise that the departure of Martin in the circumstances in which he departed was not good for the morale of the organisation and did not say something great about the view of our stakeholders, with whom it is very important we work, whether they are parliamentarians, the Treasury or the industry.

Chair: I am sorry to interrupt, but you were referring to the Treasury there, were you not?

Tracey McDermott: I included the Treasury. I included all of the stakeholders. Mr Hammond referred to comments made by firms. I have spent a lot of time over the past few months actually talking to firms to try to ensure that we have a more effective engagement than was perceived to have been the case in the past. As a regulator, it is really important that we are independent, we are tough, but we are also listening to the people whom we are trying to regulate. That is the balance we are trying to strike.

There has been a lot of discussion—I talked about it in the speech that I gave at the Mansion House—about sustainable regulation and about where, as we move out of the post-crisis phase, we go next. It is really important that that is taken forward in an intelligent way, so that there is not a slash-and-burn approach that says, "Let's just get rid of things for the sake of it," but a real debate and discussion about what is working and what is not. We stay tough on the things we need to, but we also make changes where we need to change it. That is what we are trying to do.

Q194 John Mann: This is for John. I have a couple of tidying-up questions. Who exactly is doing the interviewing for the Chief Executive?

John Griffith-Jones: There is a selection committee for the Chief Executive, chaired by John Kingman, Second Permanent Secretary at the Treasury, with Charles Roxburgh, the guy who serves immediately below, myself and one of my non-executive directors, Jane Platt. It is chaired by the Second Permanent Secretary at the Treasury.

Q195 John Mann: That is helpful. Who is your senior manager at the FCA who you have appointed as your whistleblowers champion, or have you?

John Griffith-Jones: Brian Pomeroy, chairman of our audit committee.

John Mann: He is the whistleblowers champion for staff within the FCA.
John Griffith-Jones: Yes.

Q196 John Mann: We have been told, when it comes to the dropping of this culture, "there is no big story here". Mr Griffith-Jones, you yourself said it was mentioned in the business plan. That was the term you used to the Chairman. What words were used in the business plan when it was mentioned? How was this culture review described in your business plan?

John Griffith-Jones: I am tempted to hand it across the table, but it says, "In 2015-16, we will conduct a new thematic review on whether culture change programmes in retail and wholesale banks are driving the right behaviour, in particular focusing on remuneration, appraisal and promotion designs of middle management, as well as how concerns are reported and acted on."

Q197 John Mann: Also in that report it describes it as "a key activity". With this key activity, how many times is it referred to within that report, if you could give us an estimate?

John Griffith-Jones: Do you mean the specific study?

John Mann: How many times is the issue of culture referred to in your annual report and work plan?
John Griffith-Jones: I do not know. You have clearly added this up and I have not. I hope it has sufficient prominence. I know it is in my foreword.

John Mann: You said it was mentioned. That was your term, "mentioned". I am just asking how many times it was mentioned.
John Griffith-Jones: I am guessing five, but I do not know.

Q198 John Mann: The answer is 33. You say five, but in fact it is 33. I have counted them. We have something that is mentioned 33 times in your business plan as a key activity. Can I refer you to a document that you have kindly provided us, the ExCo paper on the FCA's approach to culture? In that, it says, "Changes to the cultural thematic review in banks, our recommendation: we recommend amending the cultural thematic review, a business plan commitment, to align with the approach to culture in this ExCo paper." The Chairman has already outlined that the board's business plan was not changed by the board, which is perhaps an issue, but I wanted to home in on what the changes actually are. Without this paper emerging, we would not know. We would have no idea, but it has emerged. In fact, you have sent us it, and there are four changes in this plan, are there not, which you describe as something that was mentioned and is no big story?

Am I right that the four big changes are, first, no longer to publicise good and poor practice; secondly, to exclude the wholesale sector; thirdly, that there will be no further review of staff concern raising; and fourthly, there will be no further testing of firms' practices. It goes on to say, "Feedback may not appear helpful", if that happens. You are trying to tell us that that is minor, are you, Mr Griffith-Jones?

John Griffith-Jones: No, I am absolutely not.

John Mann: So it is a major change.
John Griffith-Jones: No, I am going to have to get some detail from Tracey, but I do know this: that the paper that you are referring to, the ExCo paper, was a draft that did not actually go to the executive committee.

Q199 John Mann: No, that is not true. That is not what you had said to the Committee in the documents you sent. You actually sent two documents. You sent one that you claimed was "a leaked document" and one that you claim was a final document. In fact, they are identical. They are literally word-for-word identical. This is the paper that you sent to us.

John Griffith-Jones: I am sorry. I am doing this from what I know, so may Tracey correct me if I actually get this wrong?

John Mann: You chair the board.
John Griffith-Jones: I chair the board. We did not know, because the document was leaked and they did not leak it back to us, so I do not know which document it is. There are two versions, which are very slightly different, actually, both of which were a draft paper that never actually went to our ExCo. The third paper that you have is what was called the decision paper—it has that written on it—is the document that went all the way through our system, through Tracey, Megan and Jonathan, as we have discussed. That was the basis for the decision.

On those four items that you have read out, the decision to exclude the wholesale sector was on the route to abandoning the whole project. First of all, we decided that it was not going to work for the wholesale sector, but that is part of the train of thought.

Q200 John Mann: Those four areas have been dropped, have they not?

John Griffith-Jones: They were dropped from the thematic. If you drop the thematic, you drop those, which were sub-contexts. The idea that they have been dropped, in that we do not care about firms' practices anymore, is not correct.

Q201 John Mann: They were dropped in the thematic. That is a major change. It may be a good thing, it may be a bad thing, but it is a very major change.

John Griffith-Jones: It would be a major change if we did not think—and this is the bit that we keep coming back to—that we had a better way of achieving the same outcome through individual firm supervision. You are not wanting to believe that that is what we were going to do, but that is what we were going to do.

Q202 John Mann: You would not have made this detail available to people.

John Griffith-Jones: We would not have made this level of detail available. What we would have done in our annual report, i.e. a year or so coming up to the thing we are going to publish at the end of this year, on culture review, is said that we did not do the review as planned, but we did something else.

Q203 John Mann: This spells out in detail exactly what you have done, so it is accurate. It spells out what has happened. Therefore, it is important, is it not, for a Committee like this to have access to this kind of document, so we know what you are doing?

John Griffith-Jones: That is an important debate. We take a lot of decisions. We have a great many documents, as you would appreciate.

Q204 John Mann: We attempt, badly or well—people may have whatever view they want on that—to hold you somewhat to account. Therefore, what you are doing and this stuff on the changes to the thematic review as spelled out is important information for us. We may think it is great, we may think it is terrible, but is it not important information for us?

John Griffith-Jones: It may be. Some of it is. Some of it is detail that I do not suppose you would like to know. There are lots of documents in our building so, for all 15 thematic reviews we are doing during the year, there will be copious documents on all of them. The duty that you have given to the board as non-executives is to do that and your level of duty is overseeing us. If we all had all the documents that the executive had, we could all be full-time employees of the Financial Conduct Authority.

Q205 John Mann: It is even more important, as the Chancellor has outlined a new settlement, for us to understand what that new settlement is and what the implications of it are. Let me come on to the question of having a senior

PRA secondment in, along with a new employee, Mr Davidson, in charge of the changes. Interestingly, what Mr Hector Sants wrote on behalf of Oliver Wyman, for the British Bankers' Association, published in early November, is pretty much identical to this. Mr Sants was there in previous times, so he knows the organisation well. What account was taken of the BBA's approach and what discussions were there with Oliver Wyman in drawing up this change of approach?

John Griffith-Jones: I am not aware of any discussions with Oliver Wyman. You will have to ask Tracey whether I should have known something.

Tracey McDermott: There were no discussions with Oliver Wyman in drawing up the change of approach. There have been regular discussions with a number of bodies, Oliver Wyman, McKinsey and Roger Steare, who is a professor, around culture for a number of years. That is part of the general approach in relation to culture.

The document that you are referring to is a draft ExCo paper that never went to ExCo. Neither version of it went to ExCo. The page that you refer to is headed up, "Changes to the culture, thematic review". Yes, those were changes, because they were things we were no longer doing as part of the thematic review. We are absolutely taking forward individual engagement with firms about culture change. As part of our wholesale conduct approach, for instance, we ask five specific questions about conduct, which we set out publicly in a speech I gave in July. We have an annual meeting with the firms, which is simply around conduct and so on. The fact that these were changes to the review does not mean that they were things that would no longer happen in any format.

Q206 John Mann: This paper says "external engagement" and it lists Oliver Wyman as one of the organisations that you are exchanging information with ongoing, in relation to culture. That is actually in the papers. Let me just end, Mr Griffith-Jones, with you again. There are very different views on whether the Chancellor's right in terms of his new settlement. Some people obviously think he is right and some people warmly engage with that. Others, including me, think it is a very bad idea. The reason we think it is a bad idea is that, we have argued repeatedly, culture in banks is crucial. Whether it is a good thing or a bad thing that the FCA's Chief Executive has been sacked and its cultural review has been dropped, which it has been in a very profound way, is it not appropriate in your view, Mr Griffith-Jones, that there is full and open transparency and public debate on what your organisation is doing, why and how, and is it your view that there has been that level of transparency over the last few months?

John Griffith-Jones: I am extremely happy to share with this Committee, at the level of detail that is deemed appropriate, consistent with the role of the board and the role of the Committee, to give you confidence in what we are doing. We have sent you all the papers. I hope we have robustly answered the questions. We are not in agreement on everything. There is no concern that, in this particular case, we took a bad decision. We have taken a decision that the Chancellor might think is a good one and you might think is a bad one, on this occasion. I guarantee, before the five years are up, we will have done something that is the other way around as well.

If you want an independent regulator, you have to allow us to be independent. If we are first of all pulled in one direction and then pulled in the other, we will never gain the trust or confidence of anybody, whether it is the industry or the people. This is a decision that, in my view ex-post and in Tracey's view in real time, was a good one. At the very least, it is a reasonable one. In your opinion, it is a bad one, but I am an independent regulator. I can assure you that the culture was, in the business plan, is and will be at the top of our list. I am in entire agreement with you that the culture of banks is fundamental to their subsequent conduct. If we could all be working together to improve it, we will make some real progress.

If on each individual decision we take people say, "Don't do that; do this," we will never have a conduct regulator who has the authority to actually carry out what they believe is the right thing to do. You have to judge us in the round. If the conduct of banks improves over a three-year period, we will have done a good job. If it deteriorates, I think it would be fair to say that you could hold us to account and say, "That is not a good job". At the moment my guess is, but not proved, that the culture is improving, but in Martin Wheatley's words we have some way to go. We need to keep our foot on the accelerator and certainly not on the brake to ensure that what they say they are going to do actually embeds itself in their organisations. Sorry, I think you can tell that I feel this quite strongly. That is how we are doing regulation.

Chair: You have given a full and interesting reply to that question.

Q207 Chris Philp: John Mann, a moment ago, quoted from your annual report that stated that the FCA will conduct a thematic review. Given that that review was then cancelled, do you think that the board should have approved that decision?

John Griffith-Jones: I have thought about that and I do not. The reason I do not is as follows. At the time that we were informed, it was not that we have cancelled something; it was that we had found a different and "better" way of doing the same thing. As a board, you could have said that that does not sound right or you could have said that that sounds sensible. I have confidence in our executive team. It sounded sensible, so I do not think that needs a formal board decision.

Q208 Chris Philp: Is that even though that different and better way of doing it, in their opinion, involved cancelling the thematic review? A specific thing that you had committed to in the business plan, which was conducting a thematic review, was being cancelled and replaced, rightly or wrongly. We will lay that to one side, but something you had committed in writing to doing was being cancelled and replaced. You do not think that the board should have approved that.

John Griffith-Jones: We have various tools for doing things. If we are trying to achieve objective A and we can achieve it with route 1 or route 2, and we say we are going to move from route 1 to route 2, I do not think that that needs a board decision.

Q209 Chris Philp: Given that the board had approved a route 1 thematic review.

John Griffith-Jones: No, the board had not.

Q210 Chris Philp: It was in the business plan, which you said they had approved.

John Griffith-Jones: They had approved the outline at the time the business plan was done. Exactly how it was going to be done had not been finalised, and that is the norm. That is nothing specific to this review. By definition, we had not planned the work all the way though.

Q211 Chris Philp: The business plan did specifically say that there would be a thematic review.

John Griffith-Jones: It did say that there would be a thematic review, yes.

Q212 Chris Philp: Then the judgment was made not to have a thematic review, but to do something else. Do you not think the board should have certified that decision prior to it being taken? The board might have thought, "Actually, route 2 is not the right route."

John Griffith-Jones: They might have. I stand by the fact that the board was briefed by people who they had trust and confidence in, that all was well and that there was a different and better way of doing this. On that occasion, the board could have said, "Excuse me, could you explain that?" We did not. I did not. I stand by that, as a perfectly respectable way of running the board.

Q213 Chris Philp: In general in the future, if the executive team decides to deviate from something that is clearly specified in your business plan, you do not expect them to consult you in advance. You simply expect them to inform you after the case.

John Griffith-Jones: With the benefit of hindsight in this particular turn of events, I would prefer that the executive came to us in writing, not for approval, I would stress, but obviously to say that this is what we have decided to do. If the board strongly disagreed, they could challenge and, if necessary, reinstate, but I do not think that that would be very likely.

Q214 Chris Philp: I might suggest that you insist on that because, otherwise, the business plan has no binding force if it can be arbitrarily deviated from without board approval.

John Griffith-Jones: I accept that point of view and, as I say, you will appreciate that we will discuss this in the board meeting we are having next week. There is one unintended consequence that I am very keep to avoid, which is that no one wants to write anything in the business plan to avoid this turn of events happening again, which would be highly plausible, by the way, and deeply unhelpful to the industry. Please help me a little bit here. I have had very fruitful discussions with your Chairman about ensuring that we are a more open and transparent regulator. Here we are being open and transparent, and the consequence of it is what has happened. I value the transparency angle, so I have to put up occasionally with getting things wrong in the public domain.

Q215 Chris Philp: Maybe I can make a helpful suggestion and say that, if there are a certain small number of really important things, you list those as things are definitely going to be done—those are the things that require board consent to vary—and then maybe have more general discussions that are less binding in the annual report. You can take that as a free suggestion to consider. I do not often give free consulting advice.

John Griffith-Jones: That is welcome.

Q216 Chris Philp: Before I move on, on the matter of communications, this was a business plan commitment—I was going to say a manifesto commitment—that was jettisoned. Would you not agree that, again with the benefit of hindsight, should you do this again in the future—allowing this to come into the public domain because somebody, I am sure not Mark Garnier but perhaps one of the banks you wrote to, leaked it—making a proactive statement explaining the reasons and giving the context, so your claim that there is a different and better way of doing it, would have been a more professional way of doing it? Aside from the substance of the rights and the wrongs, just explaining the decision properly rather than having it leaked out in an uncontrolled way—I think it was at New Year's Eve—would be a much preferable way of doing it.

John Griffith-Jones: On this particular story it would. They must not overlook what Tracey said, which is that the interest in this story, I have to say, was not primarily the review. The substantive interest should have been in the review, but the story set off pretty vigorously on an interference angle. We have actually been looking forward, believe it or not, to this particular occasion to be allowed, for the first time, over a couple of hours with an intelligent audience, to express very clearly our point of view. I feel that we have achieved that. I am not sure that we have persuaded you all that we have done the right thing, but this is very helpful.

Q217 Chris Philp: Let me repeat the question, so I can hopefully get an answer. Do you not feel that, given the importance of the decision, it would have been better to have put out a proper press release with a detailed explanation of your thinking, rather than have it just leak out by osmosis?

John Griffith-Jones: It might have been desirable to put out a fuller press release, but we have never put out a press release that would have been required, which essentially is the

FOIA response. We have never put out a press release with that level of detail on an individual decision, other than enforcement ones, in the past. My fear is that, if we had put one out, that would have been criticised as being inadequate, but I have taken your point and we will consider again, and in the light of all this, what level of detail we should put out on big decisions.

Chris Philp: I would respectfully suggest that in your next business plan—I first agree that it should to be published on April Fool's Day—have a short list of important things that you are committing to do in the coming year, a manageable list of five or 10 things. If you deviate from those, I would suggest that the board should approve that and then, when that happens, I would suggest you have a full communications plan, so that it is done in a proactive way, rather than a reactive way. I leave you those three suggestions to think about.

Q218 Chair: Before you come off those, I have not asked the Committee, but I suspect that the whole Committee and indeed most reasonable people outside this room would agree that that sounds a sensible way to do business. Do you think it is?

John Griffith-Jones: I need to reflect. Obviously these suggestions are all very helpful. The business plan did actually set out the seven top priorities already and then set out how we were going to deal with them. I actually quite like the way the business plan was written but, if I may, I will take away these helpful suggestions and decide on what we do this time round. I am listening.

Q219 Chris Philp: You have said that the thematic review has been scrapped and that, instead, you will address the issue of culture on a firm-by-firm basis. Can I firstly check or confirm what I hope to be the case, which is that your firm-by-firm evaluation will include the things that John Mann read out—the testing of firm practices, the review of the mechanisms for staff concern raising, and that this will apply to wholesale banks, as well as retail banks—i.e. the firm-by-firm evaluation will include the things here that were stated as being excluded?

Tracey McDermott: The key thing in relation to page 7, which you are looking at, that is different in terms of doing it firm by firm, as opposed to through a thematic review, is that you would not expect to have a report at the end, which is a cross-sectoral report. Our individual engagement with firms will absolutely focus on what we think are the most relevant cultural indicators for that firm. It will include individual firm testing. It will include wholesale firms. Whether it will include exactly the same question as an indicator for every single firm may not be the case because, actually, it may be that in some firms we conclude that, in fact, we are satisfied that there is not an issue with how they deal with middle management promotion, but we have a concern about a different cultural indicator. That is one of the reasons for wanting to do it on a firm-by-firm basis, so we can focus in on the areas where we think there is a potential indicator that culture may not be changing.

Q220 Chris Philp: I realise I am about to ask a very broad question, but can you briefly outline to the Committee, when you go into a particular firm, Bank X, and you are looking to evaluate their culture, how you go about doing that and, in particular, how you avoid just being fobbed off with platitudes from their HR department?

Tracey McDermott: The key way in which you avoid being fobbed off with platitudes, whether from the HR department or indeed anybody else—it is not usually the HR department we talk to, but the executives—is by actually testing that, in terms of doing things. We use terminology such as "deep dive", so we have done, in the course of the past six to 12 months, in relation to two big firms, one wholesale and one retail, a deep dive into precisely this question of appraisal and promotion within them. We will look at the files, we will look at the records and we will look at what is said, in terms of how the process is supposed to work and how it has actually working in practice. That is one of the ways you go about testing.

One of the other things that will be a useful input to us is the work that the Banking Standards Board is doing, which is focused on their members looking at cultural indicators in relation to them. We will take that into account and also use that to help steer some of our questions. To the point made by Mr Streeting earlier, if we have specific information given to us by individuals employed by the firm or others that says, "This is an issue we think is a concern here," we will use that to drive our work. The main way in which you avoid being fobbed off is to actually test the facts against the process, and that is a normal part of supervision.

The other thing I would just say is that an important part of what we were saying in relation to the change in approach is that that all continues with individual firms and in other pieces of thematic work. The other thing that we are very keen to do is to also encourage and drive culture change by talking to all of the other people, the sorts of people who John Mann referred to, to make sure that we are feeding in to the drive to improve culture across the sector.

Q221 Chris Philp: You have mentioned information you receive, so tip-offs. You received 1,340 in the last financial year. Of those 1,340 tip-offs, how many resulted in some form of formal subsequent action?

Tracey McDermott: We do have those statistics, but I am afraid I do not have them at my fingertips with me today. All of them were followed up. A relatively small number will feed into enforcement action. All of them are considered by supervisors. I am hesitant to speculate, because we do have that data, but there is certainly a large number that either influence supervision plans, drive particular pieces of work or, in some cases, lead to enforcement.

Q222 Chris Philp: A breakdown for the Committee in writing later, if that is okay, Chairman, explaining what happened to that 1,340 would be quite useful.

Tracey McDermott: That we certainly can do.

Q223 Chris Philp: Are you satisfied that, for the people who give you those tip-offs, their employer never hears about it? They presumably do not necessarily hear about it.

Tracey McDermott: If somebody comes to us as a whistleblower, we take them through a dedicated whistleblowing team. One of the things we seek to do is to protect the identity of the whistleblower. Unless the whistleblower consents, we would not notify or speak to the employer about them personally. Sometimes what happens is that, actually, one of the reasons why they get taken forward in different ways is that you will use that information from the whistleblower to steer where we might ask some questions at different times.

Q224 Chris Philp: Have you seen any evidence of UK banks or firms you regulate in any way victimising whistleblowers, or are you satisfied that the whistleblowers are being protected?

Tracey McDermott: We have made it very clear that we think that whistleblowing is incredibly important. Obviously we have published, partly following the recommendations of the Parliamentary Commission, new rules on whistleblowers, including the appointment of a whistleblowers champion at the board level. If we were given evidence that a whistleblower was being victimised, then we would take that incredibly seriously.

Q225 Chris Philp: You have received no such evidence so far.

Tracey McDermott: We have certainly received allegations from whistleblowers, people who say they are whistleblowers or people who have left firms who say that they have been victimised. The circumstances in which people blow the whistle are obviously often highly contentious and highly emotional. We take that incredibly seriously. We try to handle people as sensitively as possible, but we have not seen evidence that there is any systematic approach to victimising whistleblowers.

Q226 Chris Philp: Is there currently any plan to have an end deadline for PPI claims? To adopt a Stephen Hammond approach, do you share my concern that there are large numbers of fraudulent PPI claims around?

Tracey McDermott: We are currently consulting on introducing a deadline date to make PPI claims. The consultation suggests that that will be two years from when we make the rules. If we do decide to make the rules after the consultation closes, which is imminent, then it will take effect two years from when the rules are made, so 2018.

In relation to whether there is a large number of fraudulent claims, there is an awful lot of anecdote. I am sure that there are likely to be some claims that have been made by people who were not actually mis-sold the product, but there is no evidence that the overwhelming majority of claims are made fraudulently.

Chair: We will be able to come back to this wider subject in a few weeks' time, if Chris Philp wants to. There is a division. Colleagues who know they are paired, please stay and we will continue with the hearing. That means that two colleagues who are not paired had better go and vote.

George Kerevan: I have been given special dispensation.

Chair: There are indeed still eight of us in the room and one of them is the next person who wants to ask a question, Mr Steve Baker.

Q227 Mr Baker: The business plan of March says, “Retail investments: we will continue our review of due diligence of financial advisers,” etc. Can you confirm, please, if you have decided not to continue that review into retail advice?

Tracey McDermott: The review into due diligence conduct by financial advisers is ongoing.

Q228 Mr Baker: Can you explain why then it was reported in the *Financial Times*, on 9 January 2016, when talking about your comments on radio’s *Money Box*, that your comments came in the same week it emerged the watchdog had dropped a review into retail investment advice and the payment of inducements. Can you explain what has happened?

Tracey McDermott: You are talking about two different pieces of work. The piece of work you talked about is an ongoing piece of work. The piece of work into inducements was carried out and concluded. What we said about that in the business plan is that we would do that piece of work following up from work we had done in 2014.

Mr Baker: Sorry, could you just speak up a bit while the bell is ringing?

Tracey McDermott: There are two pieces of work, both of which were referred to in the business plan. As I said, the one you first referred to is a piece of work that is ongoing; it is not yet concluded. The review that I think was being referred to in the *Financial Times* article was a review that we said we would do in relation to inducements, which was a follow-up from work we had done in 2014. What we said about that in the business plan was that we would do that work and that the output of that work would feed into the consultation, in relation to MiFID II, which is going to cover inducements. The work has concluded; we have reported back to the firms.

Our intention had always been that that would feed into our MiFID II consultation, so there was not a change in approach in relation to that. As you will be aware, there is a possibility that the date of implementation of MiFID II may move and we will have to consider whether, in the light of that, we want to say anything more about that publicly, but what we did not want to do was to issue a piece of guidance that was UK-specific, in December or January, and then three months later issue a new piece of guidance for consultation, which was driven by Europe. That is what has happened in relation to that.

Q229 Mr Baker: Can you explain why it is that the *Financial Times* got the wrong end of the stick?

Tracey McDermott: No.

Q230 Mr Baker: Was any effort expended by any part of the organisation to correct their misunderstanding?

Tracey McDermott: I am sure we gave the *Financial Times* the information, but obviously we do not see the *Financial Times* article before the article is written.

Q231 Mr Baker: Do you recognise, as I recognise, that this is another reputational risk? If journalists are going to end up misunderstanding what you are doing, it seems to me that they could quite easily end up reporting that you had ceased to enquire into a matter that was of acute public interest, which returns us to the main thrust of the questioning of today's session.

Tracey McDermott: We made our position clear, as to what the position was in relation to that review. I am not sure what more we can do than that.

Q232 Mr Baker: Perhaps we will return to that in a moment. One of my concerns is this. The review then continues into due diligence. Many of us have great sympathy with the idea that commission and inducements is a crucial matter in relation to due diligence, but I remain concerned about the effect that RDR has had on the availability of advice. I just want to put some points to you about the consequences and then have a conversation about whether there remains work to do in this area.

I am looking at the Heath Report 2 by Libertatem, the impartial advisers association, which if you had not had I am sure that staff will forward to you, with the Chairman's permission. It says, "Historically, 23 million consumers have accessed advice via IFAs and banks. Since RDR was announced, 16.5 million consumers no longer have that access." To me, that is just over two-thirds of the people who needed advice. "Just in the last four years, IFAs have lost 7.6 million of their consumer capacity and banks have lost 6.2 million of theirs," so that is 13.8 million. "The FCA claimed RDR was needed to remove mis-selling, which they claimed was costing the consumer £223 million per annum," and the Heath Report calculates that "RDR will cost the consumer £340 million per annum", which makes it sound like the cure has been worse than the disease. Do you continue to enquire into these matters, or are you satisfied that there is no case to answer?

Tracey McDermott: As I am sure you are aware, myself and Charles Roxburgh in the Treasury are currently co-chairing the Financial Advice Market Review, which was set up specifically to look into the question of availability and access to advice and guidance, on an affordable basis, for people who do not have significant wealth. My own view and the view of the FCA is that, actually, the RDR was a necessary thing to ensure that standards of professionalism in the advice sector were driven up and that commission bias was removed, but we do recognise that there is an issue around access to advice, and that is exactly what FAMR is looking at. We put out a call for inputs that closed before Christmas. We have had 280 responses to that consultation, expressing a wide range of views. We are going through those and we will report before the Budget.

Q233 Mr Baker: As I understand it, the FCA contends that whilst RDR has reduced the number of people receiving advice by two-thirds, creating a massive advice gap, the advice that is provided is better? Now you have to do some work in order to try to close the advice gap by other means. Is that right?

Tracey McDermott: We believe that the advice that is being provided post RDR is better advice. It is of a higher quality. A large number of those people who have been taken out of advice are because the banks withdrew their sales forces and they were not always giving particularly good advice. What we are looking at in relation to the Financial Advice Market Review is how we ensure that there is good quality information and advice available to people at an affordable price.

Q234 Mr Baker: What will you say to those millions of people who have gone without advice and the estimated 25,000 people who have lost their jobs as advisers?

Tracey McDermott: I am reluctant to comment on the figures that are in that report because, if you look across the 280 consultation responses, you would get maybe not 280, but certainly a large number of different figures. What we are seeking to achieve is an environment where there is good advice available to people, so we have recognised that there is an issue here that we need to address and we are seeking to address it.

Mr Baker: Could I ask you to read the report and let us know in writing what you make of the figures that have been provided and the methodology, because they are very stark numbers, which I am sure will affect all of our constituents? It seems to me that it is extremely important, when considering the FCA's effectiveness, that we do have an answer to some of these questions.

Q235 Chair: Could I just add to that that this concern is widespread among constituents, people who write to us and of course those who have been most affected, who were in the industry and are not anymore? It would be extremely helpful if you did take away that thought, look at it very carefully and come back to us, not only with your reaction to that document, but also your estimate of what you think the right figures are. Would you be prepared to do that?

Tracey McDermott: Yes, we would be prepared to do that. I would just reiterate that obviously the Financial Advice Market Review will also be reporting in pretty short order, which will include recommendations for how we think we should take this forward.

Q236 Chair: Do you know when?

Tracey McDermott: We have said publicly that it will be before or by the Budget, so within the course of the next couple of months.

Q237 Mr Baker: I feel sure Mr Heath would not mind me saying that he is my constituent. I feel quite certain that I will continue to return to these numbers, unless you end up commenting on them. Could I just make two brief points? You also have made a proposal to reintroduce commission, I understand. Could you explain what you have proposed then, because the Chairman is shaking his head, and how you square it with RDR?

Tracey McDermott: We are, as I said a moment ago, in the course of the Financial Advice Market Review. We have consulted. We have put out a call for inputs on what can be done to address the issue that you identify, which is that there is no access to affordable advice for everyone. I was asked a question, in relation to *Money Box*, saying that some of the proposals that have come in talk about the return of commission. I said that, at this point, we have not ruled anything out or ruled anything in. We are considering all of those responses. There are actually a number of products that can still be sold with a commission built in under the current system, so we are considering the responses we have received, as you would expect us to do and as a matter of policy. When we have considered those responses, we will come forward with a set of proposals. That is the stage we are at, at the moment.

Q238 Mr Baker: Just to wrap this up, we seem to be in this morass where, far too often, people do not understand what it is that the FCA is doing. This afternoon, we have exposed far too much for misunderstanding on matters that are of profound interest to the public. This issue about not ruling out reintroducing commission has set a number of hares running.

The point I want to put to you is that it seems to me that a great deal of work needs doing on the communications strategy. If I said to you that, from my point of view, it looks somewhat chaotic at the moment, I hope that you would accept that that is offered in a spirit of wishing to be helpful and encouraging a constructive way forward. Mr Philp has given some free advice; I will not add to it at this point. Will you please go away and have a look at your communications strategy, the manner in which you assess political risk and reputational risk from what you communicate to make sure that journalists, the public and this Committee are absolutely clear about what you are doing and, if you do change what you are doing, it is absolutely clear to us how it has changed, so that there can be no misunderstandings, for all of our sakes?

Tracey McDermott: We will certainly take that away. I do not think that anybody could guarantee that there will never be any misunderstanding in anything that is ever reported, but certainly we will endeavour to do what we can to prevent that.

Chair: If I may say so, that is the sort of reply we get from banks when we complain that they have too many IT failures: "We can never guarantee that we will not have another one, but we are hard on it."

Tracey McDermott: We are equally keen to avoid misunderstandings.

Chair: We hope that we get fewer misunderstandings than we are getting IT failures.

Q239 George Kerevan: Good afternoon. Almost good evening. Individual firm supervision—as far as I can determine, the first inkling anyone had that you had abandoned enforcement action, with respect to HSBC regarding its tax evasion scandal in its Swiss branch, which did involve UK clients, the first hint that you had withdrawn any sense of any enforcement action was on Sky television news. That was followed up in the media. How did that get into the public domain?

Tracey McDermott: Can I just say first of all that we never said we were taking any enforcement action?

Q240 George Kerevan: You were investigating.

Tracey McDermott: We did not say that we were investigating in a formal enforcement sense. We looked into it when the allegations in relation to HSBC came out last January, I think it was. We looked at whether there was something that we, as an organisation, should be looking at. We did not open a formal enforcement investigation. Our normal practice, as you would expect, is not to comment on individual firm-specific issues, unless we are at the end of an enforcement process, when we publish a set of findings. We do not comment one way or another normally on whether we are doing an investigation. Obviously given the Treasury Committee is asking the question, I am answering the question. On the question of how that came into the public domain, obviously we had told the firm that we were not taking any further action in relation to this matter. I do not know whether they spoke to the media. It was not something that we released.

Q241 George Kerevan: Mr Griffith-Jones, do you think it is market-sensitive information that there is an announcement, and the way it is presented that you are not taking enforcement action, made the month before HSBC decides whether to move its headquarters or not?

John Griffith-Jones: Is it the fact we did it before or after or the announcement itself?

Q242 George Kerevan: The media announces the result of an investigation that you have not made any public announcement on, which has led to no action. This is suddenly in the media the month before a major decision is made by this company. Do you think that that is market-sensitive information?

John Griffith-Jones: No, it is not market-sensitive information. We clearly have to be very careful when we start enforcement action and when we stop it not to put market-sensitive information into the media at the wrong time, and therefore, as Tracey has been trying to say, we have a very well-trodden route of not announcing when you start and not announcing when you stop, because of the obvious reason that you push the share price down when you come in and it goes up when you come out.

Q243 George Kerevan: I appreciate that. Where I am going is that the organisation has had horrendous press over the last six weeks, which is why you are here. We are trying to clarify how we have got there. A major announcement is made in the media regarding a highly sensitive prospective enforcement action, which you might have taken against a major bank. It is announced in the press at a very sensitive time, so it fits into this general pattern of inability to get the narrative correct. Really where I am going is if you, as Chair, when that announcement was made on Sky and in the media, when it became a matter of public comment, asked senior executives what had happened. Was there any internal discussion about how that information had become public at that time, on HSBC?

John Griffith-Jones: I do not think I did, no.

Q244 George Kerevan: You read it in the papers, heard it on the radio and that was it. You just assumed that, somewhere, it had emerged through HSBC perhaps.

John Griffith-Jones: I know that we do not put out press releases each time we stop investigations, so yes, I suppose.

Q245 George Kerevan: I appreciate that, but you were not moved, given the massive press comment there in the business press on that particular story, to discuss with any of your executives or any of your communications staff how that story might have got out there then.

John Griffith-Jones: No.

Q246 George Kerevan: Ms McDermott, when was the decision made not to continue with any possibility of enforcement action against HSBC?

Tracey McDermott: The decision was made not to take forward any enforcement action in June of last year.

Q247 George Kerevan: That would be under Mr Wheatley.

Tracey McDermott: It was when Martin was still Chief Executive, yes.

Q248 George Kerevan: This is a question for both of you. Do you think there is any advantage in having some procedure whereby decisions not to pursue enforcement action can be reviewed, perhaps externally from yourselves?

Tracey McDermott: We have a process internally, which is a robust process, to assess whether or not we should take action. In some cases, obviously HBOS being the clearest example, there has been an external review of whether or not we should have taken enforcement investigations and that has made recommendations. Where it is a matter of significant public interest, there are often questions, including in particular from this

Committee, about whether we are taking action, whether we are investigating and so on. That is an appropriate form of scrutiny. I am not sure what other practical way there would be of reviewing decisions not to take action. The way in which we make those decisions internally ensures that we have input. It is not a decision made by supervision alone; it is not a decision made by enforcement alone. It is a decision that involves people from across the business to make sure you have different perspectives.

Q249 George Kerevan: What about the Regulatory Decisions Committee taking a view?

Tracey McDermott: The role of the Regulatory Decisions Committee is to make decisions on the cases that come to it. I know this was an area that you touched on last week with Mr Parkes, and he has agreed to come back to you on that. One thing I would say is that, in 2007, there was a review of the operation of enforcement and decision making at that time, and one of the concerns that was raised was that, because the RDC was involved in settlement decisions, that prejudiced its independence in terms of actually being able to make decisions. If the RDC's role is to make decisions on cases that are brought before it, there is a risk of a perception at least, if not a reality, of conflict, if it has also made the decision to commence that investigation.

The statutory framework is set up explicitly to separate those responsible for investigating from those responsible for making the decision. It is not an entirely straightforward alternative for the RDC to have that role in real time. It may be something where there is a role possibly more for the board than the RDC, in terms of saying where the cases that we did not take are and if we are satisfied that that is the right way to do it.

Q250 George Kerevan: On your wonderful phrase of deep diving, which we may discover makes the headlines, when it comes to HSBC, the Office of the Complaints Commissioner in December produced a report regarding your dealings with a complaint against HSBC, which had come to you through a whistleblower. The Office of the Complaints Commissioner, which regulates regulators, found against it. In fact, it is the tone of the findings that are quite significant relative to what you were saying to my colleague Mr Streeting about the importance of whistleblowers and how we deal with them. Very quickly, the report from the Office of the Complaints Commissioner said, in finding that you have been negligent in giving up a whistleblower regarding certain overcharging in HSBC, of its customers in the UK, that you had presided over a series of events "bordering on the farcical". You were "negligent", "defensive" and had a tendency to "shift the blame on to the whistleblower". Can you assure us that your culture has changed in that regard?

Tracey McDermott: Absolutely. As you would expect, I have read that Complaints Commissioner decision and the findings were not pleasant reading. I am absolutely satisfied that we are focused on making sure we get this right.

Q251 George Kerevan: I will just pursue that a bit more, because it is germane to your argument today that, by cancelling the thematic review and undertaking individual bank reviews and reviews into the culture of individual banks, you can get a better result. Here we have prima facie evidence that, when faced with a complaint from a whistleblower, which was upheld—the complaint was correct and no one denies that—into a particular culture in HSBC, you failed to deal with that. I am sure that you are committed to changing things, but what has changed in your approach to assessing the internal culture of HSBC that makes you sure that you can now do that and dispense with the thematic review, given that we have, according to the Complaints Commissioner, evidence that you could not do that in the past?

Tracey McDermott: Can I be very clear what the Complaints Commissioner upheld? The Complaints Commissioner said that we dealt with the complaint by the whistleblower inappropriately, and we have apologised for that. The actions that the complaints relate to relate to a subsidiary of HSBC called HFC. They go back some considerable time to a point in time when HFC was regulated by the Office of Fair Trading, before the FCA took on responsibility for consumer credit. HFC is no longer operating in the consumer credit business.

When the original issue came to us, it was looked at by the team and it was decided, for a range of factors—the OFT had taken some action in relation to HFC—that actually it was not something that we should focus on. We have agreed that we should review that decision, in the light of looking again at the complaint. The question that was being decided then was really about whether we look back at things that a previous regulator, which was at the time responsible for regulating that firm, has closed off. I do not think it is related. I do not see it as being directly correlated with the culture review.

Q252 George Kerevan: I accept what you have said. I am not trying to slap your wrist. Your defence today has been that you do not need a thematic review, because you can deal with the specific cultures of specific organisations. It does seem to me that, to a degree, the Complaints Commissioner is suggesting you were not properly able to handle an analysis of the culture of a particular organisation. As you just said, you seemed to say to me that it was in the past. It was another regulator’s fault. Therefore, we did not feel it was germane to use that organisation here now. You have to reassure us that, if you are going down the route of looking at the cultures of individual organisations, you can get that right now.

Tracey McDermott: The point I was trying to make in relation to the fact that it was previously regulated by the OFT and the OFT had taken action is that an allegation that has been levelled at us in the past is that we regulate on a retrospective basis, and we change the rules to suit us when it comes down to it. That is something that, when you are looking back at action relating to something that was presided over by another regulator, you have to be very cautious of. As I have said, HFC no longer has a consumer credit licence; it does not do that sort of business.

I can only reiterate what I have said: we are very focused on the question of culture. We look at that. We have talked a lot today about what we have not done but, if you actually look at a number of the things we have published over the course of the past few months since September, we have published large penalties on banks, asset managers and others.

We have also had redress secured for payday customers of another £45 million, which we have published over the past few months. We have published a review into wealth management suitability. We have published a review into mobile phone insurance. We are still very much focused on trying to ensure that we are driving good conduct and good standards, across the financial services sector. Will we always get it absolutely right? Of course we will not; we are human beings, but we are very much focused on what we are trying to do and to learn from when things go wrong.

Q253 George Kerevan: My final question is on something you have not published. We had been expecting some time this year to have the report on what you were doing on RBS, on the global restructuring, which you had originally initiated and said would come out this year. Again in the welter of announcements that were made around Christmas-time, you have announced that it has been put off a year. Am I right?

Tracey McDermott: Originally we said that we hoped to have it before that. We had said that we hoped to have it published by the end of 2015. We wrote to the Minister and possibly also to the Committee to say that, actually, it was not going to be possible to publish it. We are expecting it to be published in the early part of this year. We are endeavouring to get that finalised and ready to be published as soon as possible.

Chair: We are likely to come back to this subject in a few weeks.

Q254 George Kerevan: On the HBOS report, we were constantly told, "It is just coming; it is just coming; it is just coming." Can you reassure us that we are not actually having a repetition of the HBOS report, and that we will get this timeously and it will not be delayed by Maxwellisation or whatever?

Tracey McDermott: We are doing everything we can. There has been a skilled person appointed to do the work. They are in the final stages of their work. We are endeavouring to get something published as soon as possible.

Q255 Chair: Is one of the reason that the appearance of poor communication strategy has got about that you have somebody in the organisation, or more than one person, leaking documents or information?

Tracey McDermott: Clearly, as was touched on earlier, the document to which your colleagues were referring was an internal draft document, which we did not release into the public domain, but which ended up in the hands of the media. That was clearly leaked by someone. The circulation of that document was certainly internal to us and the PRA, so it clearly does appear that there has been a deliberate leak, which is something that is a serious and significant concern to us as a regulator.

We have looked at the past. There are often stories reported in the press where we could have been one of the potential sources. We have not identified a pattern or systematic version of people internally who knew this information, so we do not believe that we have somebody who is systematically leaking information to the press. It is a general matter.

Q256 Chair: Have you got a leak inquiry underway about the story about the secondee from the PRA?

Tracey McDermott: The fact that Megan Butler is a secondee from the PRA is well known. We put a press release out about it on 30 July to say that she was coming over, so that is a matter of public record. The leak inquiry is in relation to this document and how that ended up in the hands of the media.

Chair: I see; that is part of the same thing.
Tracey McDermott: It is part of the same story, but it is a factual matter.

Q257 Chair: I understand. How many leak inquiries have you got underway at the moment?

Tracey McDermott: We have got six underway at the moment.

Q258 Chair: Do you always put leak inquires in place if you reason to suppose there might have been one?

Tracey McDermott: We look to see whether there is reason to suspect that we may have been one of the sources.

Chair: The answer is generally yes.
Tracey McDermott: Generally yes.

Q259 Chair: How many leak inquiries did you have last year?

Tracey McDermott: 15.

Q260 Chair: That is quite a lot, is it not?

Tracey McDermott: It is quite a lot.

Q261 Chair: There does seem to be something amiss with the communications strategy still, as part of the range of problems that the Davis Review was given the job of looking at and its recommendations were designed to address. Of course there was the Treasury Committee report on the back of that. We all recognise that you have a very difficult job, extremely difficult job, and we do not underestimate how difficult it is. When we look at an issue such as we have just been looking at this afternoon, the thematic culture review—I know we have ranged a bit more widely towards the end of the hearing—we do seem to be looking at something of a road accident. You have given us an explanation for the handling of it, and others as well as us can judge whether that explanation has been full and reasonable, but the wider problem is that there has just been this succession of concerns about the way that the FCA is handling communications, reputational risk and a whole raft of issues, which suggest of themselves that there is still something wrong with the culture of the FCA itself. Do you recognise that getting that right is still work in progress, or do you think that that is a misplaced observation on my part, partly on the basis of what I have been hearing this afternoon? Perhaps I could ask the Chairman, as it is so central to governance.

John Griffith-Jones: We have work to do on ourselves. I know what your personal view is and what a lot of people's view about the FSA was. I came into the organisation at cutover. I inherited just under 3,000 people who had been part of the FSA. The letter had changed. Martin Wheatley was new, but the idea that we would be brand new all at once just could not possibly be. We have worked very hard at curing some of the things that you have been critical of and, actually, the overall culture and the willingness of the organisation to do the right thing is at an all-time high.

I have to say that the consequence of these various events and the more criticism we get, the more difficult it is for me, my board and the new Chief Executive to get us to the next level, but that is our job and we will do it. I do not think that there is something rotten in the core of England in the FCA. We are in a very, very high-profile place. You may argue, maybe with some validity, that comms are just mega-important to our organisation and we just have to have more and more people in comms, but my job is to be a good regulator and I do not want to be writing the newspapers.

I would infinitely prefer to be less in the newspapers, except when we have taken big decisions, the right decisions or even, God forbid, the wrong ones, but there is a running commentary. Everybody who is dissatisfied with us, for whatever reason, including your good constituent, tries to get in the newspaper and they only have one story, which is that we are no good. Every now and again, they hit. We fend off a good proportion of them, but we get caught out, we do not respond exactly appropriately or there is a grain of truth occasionally. I think that we actually have a good set of people, we have a good culture and we are trying to do the right thing, but we have progress to make.

Q262 Chair: Thank you very much for that. Just one last question: do you have any idea at all when we might hear who will be appointed the new CEO?

John Griffith-Jones: That is a difficult question to answer, Mr Chairman, but "shortly" is the answer.

Q263 Chair: In your parlance, can you define "shortly" in terms of days, weeks or months?

John Griffith-Jones: It will be quicker than HBOS.

Q264 Chair: That has not pinned it down, clever reply though it is. We are going to keep you here until you pin it down.

John Griffith-Jones: As you know, it is not my announcement to make, but we are getting there. We really are getting there, so it will be shortly, I think.

Q265 Chair: Will it be imminent?

John Griffith-Jones: It is somewhere between imminent and fairly soon.

Chair: On that note, we will end. Thank you very much for coming in to give evidence.