HOUSE OF COMMONS

Treasury Committee

Oral evidence: Consumers' access to financial services, HC 1642

Wednesday 27 February 2019

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Watch the meeting

Members present: Nicky Morgan (Chair); Mr Steve Baker; Charlie Elphicke; Stewart Hosie; Catherine McKinnell; Wes Streeting.

Questions 257 - 330

Witnesses

I: Rebecca Hilsenrath, Chief Executive, Equality and Human Rights Commission; Andy Goldsby, Community and Relationship Manager, Equality Advisory Support Service; Christopher Woolard, Executive Director of Strategy and Competition, Financial Conduct Authority; Nisha Arora, Director of Consumer and Retail Policy, Financial Conduct Authority.

Written evidence from witnesses:

– Financial Conduct Authority

Examination of witnesses

Witnesses: Rebecca Hilsenrath, Andy Goldsby, Christopher Woolard and Nisha Arora.

Q257 **Chair:** Good morning. Thank you very much to our panel for being here today. This is the final oral evidence session in our inquiry into vulnerable consumers' access to financial services. I am going to ask the panel to introduce themselves, for the benefit of those who will be watching or listening to the session. Ms Hilsenrath, we will start with you.

Rebecca Hilsenrath: Good morning. I am Rebecca Hilsenrath. I am the chief executive officer of the Equality and Human Rights Commission.

Andy Goldsby: My name is Andy Goldsby. I am the community and partnerships manager for the Equality Advisory Support Service helpline.

Nisha Arora: I am Nisha Arora. I am the director of consumer and retail policy at the FCA.

Christopher Woolard: I am Chris Woolard. I am the executive director of strategy and competition at the FCA.

Q258 **Chair:** Thank you very much. We have a good, varied panel with different expertise before us this morning. I will start with issues around the Equality Act regarding accessible communications. Ms Hilsenrath, I will start with you. If a customer has a problem with their financial services provider not making a reasonable adjustment, for example not providing instructions on a leaflet about how to get a different version of the leaflet or the information in another way, who should they complain to?

Rebecca Hilsenrath: The easy and quick answer is that they should complain to the Equality Advisory Support Service on my left but, while I have the mic, perhaps it would help if I talked a little about my own organisation and how it fits into the framework. We were established in 2007, as the merger of three legacy commissions. It is perhaps important to set out that we were not set up or resourced to handle individual complaints. We are a very small organisation and our remit is strategic. It is about looking at the framework as a whole. In fact, the Equality Act is set up with the view of being able to provide rights for individuals to take complaints forward, and the government helpline, the EASS, which is an entirely separate organisation from ours, is there to offer advice and support to enable them to do so. I can go on, if it is helpful, to talk about what we do, but I will perhaps pause at this point.

Q259 **Chair:** We are going to explore that in the session but, if there is anything that we have not drawn out by the end, then you must let us know. Mr Goldsby, I have here three leaflets from NatWest. They are full of not small type but, for somebody who is visually impaired—or if Mr Mann were here he would be talking about literacy and levels of understanding—there is nothing on them that says how to get a different version of the leaflet in a more accessible format. If somebody calls you and says, "I'm unhappy with NatWest"—I have just picked NatWest, but there may be others—where do you go next as the EASS?

Andy Goldsby: The remit of the EASS is initially to give advice to individuals who have experienced discrimination, not just with access to services, but in all areas that the Equality Act covers. We get complaints from individuals, in particular around accessible formats, mainly looking at the correspondence an organisation has sent to them, so an individual letter to somebody.

We would give them advice about the rights they are likely to have, so in particular we would make reference to the reasonable adjustment duty, and then set them on their way with an initial action plan. We have things like template letters that are available to individuals on our website. If an individual would struggle to communicate with the organisation, we are likely to do that for them, but at an informal stage. We are really about educating the individual about the rights they have and then talking to them about the most effective way to resolve the issue, at the earliest possible stage.

Q260 **Chair:** You cannot enforce compliance.

Andy Goldsby: We cannot at all.

Q261 **Chair:** You are about empowering individuals, not about contacting the relevant bank or financial services provider and saying, "Not good enough".

Andy Goldsby: Absolutely. Interestingly our remit is purely advice on the Equality Act, and the Act itself empowers the individual to take a complaint. In this situation, if it is access to services, that would be to county court, or sheriff court in Scotland.

Q262 **Chair:** Let me turn to the FCA. I do not know who is best placed to answer about the role of the FCA. Why does the FCA, or perhaps the Financial Ombudsman Service, not handle complaints like this? I do not know who is best placed to answer that.

Christopher Woolard: I will start and then Nisha might chip in as well. I suppose there are three parts to the answer. There is a bit of a danger we end up talking specifically about jurisdictions, enforcement powers and all of those kinds of things. The point for us is, at the end of the day, there are real people sitting behind what we are talking about here. The question is how we try to help people, as far as we can, within the powers we have. That is a precursor to what I was about to say.

Secondly, how do we deal with the fact that on a range of issues there are jurisdictions that either overlap, underlap or do a variety of things?

On the question of enforcement, we are clear in a number of spaces. For example, to take it out of this context for a second, when we deal with data breaches, which we encounter an awful lot, we always see the ICO as being the proper enforcement agency for them. Nevertheless, we are concerned that we are seeing financial services firms with those data breaches. Similarly, we would be looking towards the rights that there are in law and to the colleague sitting to my right when we are looking at what we think is effectively a breach around this space.

However, with that said—and this is where this gets a bit grey—there are clearly things that, even if technically a breach of someone else's regulations, rules or laws that they enforce, may also speak to how we regard that firm. For example, if someone has very poor data controls, that will speak to systems and controls that are absolutely a matter for us as a regulator. Similarly, how a firm treats customers who are in a vulnerable position is something that we would say speaks to how we regard them treating customers fairly.

Q263 **Chair:** Exactly. I understand the point about enforcement of rights under the law and we will come back to that under the Equality Act. You kindly wrote to us last Friday in advance of this session, and in the letter you said, "We would not however set standards or provide guidance on how firms should communicate with customers in order to meet their obligations under the Equality Act 2010, for example, whether particular formats or channels of communication must be made available." The question is: why not? You talk quite rightly about treating customers fairly, looking after vulnerable customers and making sure people have access to financial services, whether advice or their own money. Leaving the law to one side, is there not a cultural thing about how firms treat their customers?

Christopher Woolard: I agree with that last statement. This absolutely goes to the culture by which firms treat their customers. It is worth qualifying what we talked about a moment ago. The first thing that is worth saying is that we take a very broad view of what constitutes vulnerability. It goes far further than the protected characteristics that are set out in law. That leaves us with a large group of people who could have the potential to be vulnerable at any one point in time—up to 50% of customers, in our view.

In that set of circumstances, there is a practical limit to where we could set out, in very clear binding rules or guidance, exactly what you should do in every single circumstance. We are talking about around 30 million people here. Many of them will have very individual circumstances, and we are trying, with our own focus on vulnerability, to create a culture in which we set an expectation for firms in which they have to think about this. They have to apply some basic principles and thinking here, then say how this plays out in the circumstances of the individual customer in front of them.

Q264 **Chair:** When did either of you last have those conversations with a firm?

For example, NatWest is not a new entrant to the market; it has been around for a long time. Its leaflets have not been obviously available to people with different needs for a while. When did the FCA last have a conversation with it about them?

Nisha Arora: Back to your first question about consumer complaints, a consumer will phone our consumer line. We will talk to them. We are trained to deal with vulnerable consumers, so we will identify their needs and talk to them about the problems they have. Where we think it is appropriate, we will refer to the other bodies on my right to point to sources of information. We will then decide how to tackle the problem with the firm. That is referring it to our supervision department, which will look at issues and particularly prioritise issues where there are vulnerable consumers at stake.

Those supervisors will then, as appropriate, go and talk to firms and ask them questions about their policies, their processes and, importantly, as Chris said, whether they are complying with our rules, whether that is about treating customers fairly or making sure that their communications take account of client needs. It might be an anomaly; it might raise broader questions about the conduct of that firm and its fair treatment, but we certainly do that. In that letter, we say we are driven by our consumer protection objective but, if we see problems that might be equality-related issues, because of our public sector equality duty and because there may be a breach of other legislation, part of our consideration will be whether one of our principles is breached and whether the bank is treating customers fairly. Those are the sorts of considerations we will definitely take account of.

Q265 **Chair:** I am going to hand over to Wes in a moment but, for Mr Goldsby and Ms Hilsenrath, I absolutely understand that the EHRC cannot take on individual cases, but it presumably can conduct thematic work. I do not know whether it has done something like this for financial services. Likewise, Mr Goldsby, as a Member of Parliament I am on the lookout for a run of cases on a particular issue, at which point I will think there is a problem with a particular institution. The Passport Office is the most recent one. Are you, the EASS, tracking cases? If you suddenly have a spike in the number of people saying, "X bank's website has been updated and is completely useless for anybody who does not have 20/20 vision", do you then speak either to the EHRC or pick up the phone to the FCA and say, "Do you know what? There's a problem here"? Rather than have lots of people individually complaining and spending time going to court, can you not just talk to them? In a way, we need a Governor's raised eyebrow, Mr Bailey's raised eyebrow, and to talk to the chief executive of X bank, to say, "This is not good enough."

Andy Goldsby: It would be helpful to clarify our relationship with the Equality and Human Rights Commission. What you have described is exactly what we would do. In terms of the issues we receive, in all honesty, issues around access to financial services are a very small proportion compared to wider discrimination areas that we deal with.

Just to put it into context, around half our contacts with our helpline are based on work issues. What we do is collate a lot of information for the Equality and Human Rights Commission each month. Within that information, we are able to spot and track those trends in particular.

There are two ways of approaching this. One is if we notice a particular institution, so if we get a lot of calls on one particular service provider, that would be tracked and logged each month. The other is if we are noticing a particular type of issue coming through, over and above what we class as our standard issues. That information is then referred to the Equality and Human Rights Commission and plays its part in informing its strategy going forward.

Q266 **Chair:** Ms Hilsenrath, how do you then take that forward?

Rebecca Hilsenrath: I can describe what we do in a number of ways. We have looked at issues with financial services in the past. For example, we have entered into agreements with high street banks to improve the way they provide services for those who are hard of hearing. We have funded cases in relation to access to mobile services, physical wheelchair access to banks and so on. Andy is absolutely right that our relationship with the EASS is very close, and we are always working to improve it. We are looking at taking forward a platform later this year, in which we will be able to more easily identify, as Andy says, both thematic recurrences but also where an individual institution seems to be in breach of the law.

That takes me on to describing our strategic approach. We are in the final throes of determining our strategic plan for the next three years. What we have heard consistently in feedback from stakeholders, our last tailored review and other Select Committees is that we ought to be looking at a very small number of strategic priorities going forward, which is likely to be six. In that space, we are not going to be focusing on financial services thematically. What we will be doing is taking cases where we see an egregious, systematic or flagrant breach of the law, and that is where Andy's work comes into play. We will see these themes coming up and we will say, "We need to have a look at that," outside our strategic priorities.

It is worth mentioning that we continue to work with other ombudsmen. It is an important part of working with others. We provide guidance to institutions and ombudsmen, and we have an adviser support service, which is open not only to the advice sector, but also to ombudsmen in the industry. That enables them to pick up the phone when they think there might be an equality issue coming up on which they want to seek our views.

Q267 **Chair:** I have two quick questions before I hand over to Wes. First, do you work with the Financial Ombudsman Service?

Rebecca Hilsenrath: We do. We have relationships with them as well.

Q268 **Chair:** Mr Goldsby, you might have given us this evidence, so I apologise if I have missed it, but roughly what is your caseload? I do not know if you measure it on a monthly or an annual basis.

Andy Goldsby: It probably would not be helpful to put a figure on this, but it is very small.

Q269 **Chair:** Do people know about you?

Andy Goldsby: They certainly do.

Q270 **Chair:** I know about you as a constituency Member of Parliament. I do not know if other members of the Committee have referred constituents to the EASS. I have not. You could have a bit more profile here, please.

Andy Goldsby: Absolutely, and we have embarked on a very extensive engagement programme over the last couple of years. We have to cast a wide net, because you can imagine the amount of discrimination and human rights issues that individuals have, so it is trying to work out who to engage with. For example, we have a great relationship with the Equality and Human Rights Commission. I have recently come back from a large engagement trip to ACAS, going to visit their various helplines. It is trying to work out to whom I need to be speaking to ensure we are getting the right types of issues coming through.

Twice a year, I run what we call reference group meetings, where I invite a lot of organisations with an interest not just in equality but in equality advice, to come and speak to me twice a year about the types of issues that are we are receiving and what they are seeing. We also have conversations, for example, if Citizens Advice or ACAS has seen a particular type of discrimination and we have missed it. That is a great indicator for me to start having conversations in that area.

On the engagement plan itself, in the last quarter, we had around 154 individual organisations referring into EASS, which was a great volume. The message of the service is there but, with the nature of advice we are giving, there will be some areas where we perhaps do not have as high a profile as we should have.

Q271 **Wes Streeting:** I strongly endorse what you said, Chair, about our casework. My team would certainly find it valuable to know about your service, so it would be welcome. Most of my questions are for the FCA, so some of you can relax for a moment, but you two cannot. Fingers on buzzers!

The first thing I want to do is pick up with you a theme we have run throughout this inquiry, which is about defining vulnerability. The FCA defines a vulnerable customer as "someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care". Are you confident that your definition of vulnerability is workable in practice for firms? I am happy for you to decide between you who wants to answer.

Christopher Woolard: I will start and we will perhaps do a double act. The short answer is yes. One of the things that we have done as part of our recent consultations is to go out and test that in a very meaningful narrower definition. For many people, including a number of firms and not just consumer groups, there was a feeling that this may not quite work. It requires people to start from a broad definition because, if you take it at its broadest, up to 50% of customers could be potentially vulnerable at any one time.

Clearly the numbers of people who suffer detriment are tiny in comparison to that. The actual detriment that we will see will be far smaller than that number, but we think it is workable, in the sense that, if we look at how vulnerability expresses itself in financial services, it is far wider than the protected characteristics. For example, people who have suffered a recent bereavement are particularly vulnerable. Individuals who have a low level of financial literacy will be particularly vulnerable, just by the nature of their circumstances. We have to find a way to capture that and get people to think about and engage with those circumstances, but we believe that is the right starting point.

Nisha Arora: We have set out various indicators of potential vulnerability, and they are broad. They go from health through to life events, such as bereavements, through to low financial capability and low resilience. We think that is the right approach. We do not want to take a narrow approach, because vulnerabilities take all sorts of forms and that is recognised by industry. We have recently done an awful lot of engagement with firms that have said they have taken on board our definition; it is one they are accustomed to. They have asked us for a bit more clarity about how they can meet their obligations. That is why we will be producing the guidance, to help that, but the starting point needs to be broad, because we do not want to miss that broad range of vulnerabilities that we see.

Q272 **Wes Streeting:** I understand. Your research stated that around half the population has characteristics of vulnerability, although—noting what you said—not everyone will experience detriment. What expectations do you have on financial services providers to be able to identify these people? Is the expectation on consumers to proactively disclose their vulnerability to a firm? How do you envisage firms identifying this?

Nisha Arora: Identification is definitely one of the biggest challenges that firms encounter, which is why we will be covering that in our guidance, to try to provide further guidance to firms. As you say, the broad concept makes identification particularly difficult. There are certain types of vulnerabilities—hidden vulnerabilities and transient ones—that are much harder to identify.

Sometimes consumers will disclose, but we know from our research that there are a number of reasons why they do not want to disclose. They might potentially not know about their own vulnerability. They might fear repercussions if they disclose. There is a fair amount of lack of trust in financial services; we know 40% of UK adults have low confidence in the industry. There is lower confidence for those who are vulnerable consumers, so there are a number of reasons why consumers do not disclose.

On the other hand, I would not expect a firm to be able to identify every consumer, particularly those who do not disclose, but we think they should have the policies and practices in place that can enable identification. They need to make an effort to identify their customers and really understand customer needs, in particular the needs of vulnerable consumers. There are a number of ways they can do that. We have seen really good examples of frontline training, where people are actively listening and are trained, as our contact centre is, to look out for the triggers of vulnerability. It is slow, but we are seeing firms starting to use data and analytics to identify patterns and trends that can identify potential vulnerabilities, where people might be spending slightly differently.

We have also seen people starting to introduce more touch points into their consumer relationship. At the beginning of the relationship, someone might not be vulnerable or they might not disclose it, when they set up their insurance contract, for instance. It is when they come to the claim that they might be vulnerable. We want firms to set up touch points then and not just do it once, but to keep doing that. There are ways. We are seeing good practice but we want to see more, which is what we will try to encourage and shift through our guidance.

Q273 **Wes Streeting:** Having mentioned the guidance, you can probably anticipate my next question. When will we see the guidance?

Nisha Arora: It will be in the next few months, in the spring.

Wes Streeting: We define seasons very loosely in Parliament, or at least the Government do. It would be good to get it genuinely in spring.

Christopher Woolard: Having once been a civil servant, I have to say the regulator is far stricter about seasons than sometimes Whitehall is, but we hope to have that pretty soon.

Q274 **Wes Streeting:** Could you outline the scope of the guidance for us? In what areas can we anticipate the FCA issuing further guidance?

Nisha Arora: We have done a lot of engagement with firms and consumer groups to understand where their greatest demands and biggest challenges are. We are going to cover the customer journey from identification, through to fair treatment, through to redress and recourse in the treatment of consumers. A few particular challenges have come up, such as identification and concerns around GDPR and data. We will be working with the ICO to try to give greater guidance on how firms can balance their responsibilities to protect data and gather it as well to identify vulnerable customers. We will be giving guidance on training of frontline staff, because that is a key part of identifying vulnerability, but also how firms need to embed the right culture in their organisations.

The other thing that we have started to see goes back to your first question about the breadth of vulnerability. Firms are asking themselves a question about whether it is right to try to identify specific vulnerabilities and then deal with them on each occasion or whether they need to take a more inclusive approach and design for a range of vulnerabilities. The example that is often given is the lowered ramp or the dropped kerb, which is there for wheelchair users, but which actually helps parents with buggies and people who have other walking difficulties. Actually, we are thinking more broadly, right from product design to service delivery, about how we can design what we do to suit a whole range of customer needs. That is something that we are seeing firms start to introduce and that we would encourage, given the breadth of the definition.

Q275 **Wes Streeting:** Finally, before I move on to a different topic, you touched on the importance of staff and culture, but are you proactively discussing the issue of staff training with firms? The reason I ask is that, during our inquiry, the evidence has made it clear that this is an area that is pretty inconsistent across firms. There is evidence to suggest that, where staff training is in place and good, it is having a real impact. How are you approaching this issue?

Nisha Arora: That is one of the key areas that we have been talking to firms about: staff training and how they need to support staff. Importantly, we are seeing particular units in organisations that are good at this, but it is not consistent. It is ensuring that there is a consistent policy and line of sight right from the board through to the frontline staff, so they have the support and the networks they need. Those are the sorts of things that we have been talking about and will be covering in the guidance.

Q276 **Wes Streeting:** Briefly, just before I hand over, your discussion paper on introducing a duty of care is now closed. When can we expect to hear the results and next steps on that?

Nisha Arora: It will be in the spring. It closed in November. It has been really interesting and carries on being an interesting and complex debate. We have had a lot of responses, which we were pleased to see did not go down the yes or no answer on a duty of care or not. What we wanted was a broader debate: what is the problem here? Are we delivering the right and appropriate level of protection for consumers? Are firms incentivised to put consumer interests at their heart? If not, what needs to be done? That may be a new duty. That may be changes to principles, to rules or to the way we act to incentivise that. That has been a much broader debate and a more impactful one than whether there should be a few word changes. We are analysing and working on all of that, and are hoping to issue our feedback statement in early spring. I will put it that way—I am shifting.

Chair: Now we have got on to early, middle and late.

Nisha Arora: We will take it forward from there.

Q277 **Wes Streeting:** I am now anticipating what you are going to say in a paper that has not yet been published. Your discussion paper talked about fiduciary duty and duty of care. In headline terms, based on the evidence the FCA has heard and discussions that have taken place, are you convinced of the need for a duty of care?

Nisha Arora: The concept of a duty of care, the legal term of art, which is the "reasonable care and skill" one, is already there. It is in principle 2 and it is in consumer protection legislation. In itself, I could easily say, "Do you know, there is no reason for this?" The reason we wanted to go beyond that is that it is being used as a proxy for people saying that, actually, the appropriate level of consumer protection is not there in the market. It is not being delivered; firms are not putting consumers at their heart. Duty of care was used as a proxy. I am not convinced that the words "duty of care" need to be added, because I think they are already there. What we are exploring is whether other things need to be done, whether changes of words or changes to practice.

Q278 **Wes Streeting:** Solicitors have a duty of care to their clients. Do you think this could apply in the financial services industry?

Nisha Arora: Our principle 2 talks about reasonable skill and care. The Consumer Rights Act already requires "reasonable care and skill". If people are still telling us that is not providing the right outcomes for consumers, we want to understand why, what the gap is and what needs to be added.

Q279 **Wes Streeting:** It sounds like the FCA is in the space of how to make this work rather than whether this should apply. Is that fair?

Nisha Arora: We are in the space of not just wanting to close the debate down based on whether or not it is a duty of care. We could quite easily close that down and say it is already there, but we want to go further and understand whether, with all the changes in the market, vulnerable consumers and all the challenges consumers are facing, firms are really putting consumers' interests in place and how we make sure consumers are getting the right level of protection.

Christopher Woolard: Just to add to and underscore a point that Nisha made at the start, sometimes you can have consultations that purely serve to allow people to record their established positions and simply repeat what they have told you five times already. This has been a really good consultation in terms of driving out what actually matters to people and needs fixing. We could very easily tweak or not tweak a few words; this is more about getting under the skin of what we can practically do to make a difference.

Q280 **Wes Streeting:** Finally, from a consumer protection point of view, Mr

Goldsby, do you think a duty of care ought to apply and that we need further clarity in this area?

Andy Goldsby: That is a difficult question for me to answer, because the remit of the EASS is purely focused on the Equality Act. We are looking at any disadvantage that an individual may experience that could lead to discrimination and, in particular, any unfavourable or less favourable treatment. In terms of duty of care, from our advice perspective, we would be looking at whether the individual has been discriminated against or not. That is what we aim to identify in issues presented to the helpline.

Q281 **Catherine McKinnell:** Good morning. I will start with a question for you, Rebecca. How do you define "reasonable adjustment" under the Equality Act? If you could, put that in the context of what it means for financial service providers.

Rebecca Hilsenrath: Without wishing to dodge the question, it is less about how I would define it but, in any one circumstance, it is ultimately about how the courts would define it. In relation to financial services and a reasonable adjustment that needs to be made for a disabled customer, the court would look at all the surrounding circumstances. They would be a combination of the needs of the customer and the disadvantage they might encounter if it were not made, against the disruption to the business, the cost of it and so on and so forth. As you are aware, reasonable adjustments are an anticipatory duty, so it is about financial services being aware of those needs and putting adjustments into effect in advance.

Q282 **Catherine McKinnell:** Getting into the specifics, would you consider providing an interpreter, whether for language or particularly British Sign Language, is an entirely reasonable adjustment? Is it a duty on the financial service provider to provide and fund that?

Rebecca Hilsenrath: I am going to repeat myself, which will probably be annoying.

Q283 **Catherine McKinnell:** What is the interpretation of the courts?

Rebecca Hilsenrath: I am not here to say what a court would say.

Q284 **Catherine McKinnell:** You just said it is an anticipatory duty, so what should financial services anticipate would be their duty?

Q285 **Chair:** Is there a case law?

Rebecca Hilsenrath: No, I am not aware of any case law.

Q286 **Catherine McKinnell:** I guess that is one of the concerns. You are saying it is an anticipatory duty, so you do not particularly want people to have to bring a case. Really, it is an understanding of what that duty is and what the anticipatory duty should be.

Rebecca Hilsenrath: Completely, and I come back to what Nisha was saying about culture and inclusivity. If I was standing in the shoes of a financial services provider, I would be saying, "What do I think a court would say if I did or did not do this?", and I would be looking to legal advice. I would also be looking to see how much I can do to make a service available for somebody.

One of the things that Nisha and Chris were talking about was consultation. One of the key things we say in relation to working with disabled customers is about the need to consult: to talk to disabled customers, find out what their needs are and work with them. That is a key part of the work that we have done with banks and financial services providers to say, "Who are your customers? Do you understand what their needs are?" Unless you are talking to them, you do not know. You cannot possibly put anticipatory duties into effect unless you have bothered to take the time to work out what people are going to need. The issue is perhaps less what a court is going to say, but what you are going to be doing as a reasonable, appropriately minded, customer-oriented financial services provider to say, "Let me find out what my customers' needs are and let me do what I reasonably can to make the service available to them."

Q287 **Catherine McKinnell:** Following on from that, a British Sign Language user is going to require an interpreter to communicate with their financial service provider. Therefore, is that a reasonable adjustment?

Rebecca Hilsenrath: I would expect a bank or financial services provider to ensure that, in designing their services and systems, they include those who are hard of hearing in their consultation processes and design their processes around that. I know I am probably irritating, but I am trying to move away from looking at a specific solution. I just think there needs to be a solution to make sure that people can understand communications from banks. We have done work with banks in this area to look at what hard-of-hearing customers need from their banks.

Q288 **Catherine McKinnell:** Is it a reasonable adjustment to expect somebody who uses British Sign Language to rely on a family member to come and interpret? Would that meet that requirement, in your view?

Rebecca Hilsenrath: As well as the needs of the individual customer, it also depends on the size of the institution. How big is the bank? What are its other obligations? What are its resources and what is its customer profile? I would expect a reasonable and conscientious bank to know all that information and ensure that it had it.

Q289 **Catherine McKinnell:** You say you are in discussion about this and it has to be part of consultation and conversation with customers on what they need. Is a degree of education still required to understand how different disabled customers might have their needs met? I will give you an example. In response to a question that I asked in an earlier session about the provision of BSL interpreters, one of the witnesses mentioned the use of induction loops, which is not relevant at all to a BSL user.

I apologise that I was slightly late in arriving today, but I understand the Chair held up some leaflets. The way to access that information in alternative formats requires telephoning the bank. Obviously, if you are a BSL user, that again is a challenge. Is enough being done to ensure that, even for customers who may not be able to access the ability to complain about their ability to engage with the bank, reasonable adjustments are being made?

Rebecca Hilsenrath: I come back to the point that banks need to take account of people's needs. While we as an institution do not have this issue in our strategic priorities, if evidence is made available to us of systematic ignoring of people's needs and a failure even to educate yourself, as a financial service provider, of what people's needs are, I would say that not enough is being done and we would look at whether we should be using our legal powers in that regard.

Q290 **Catherine McKinnell:** You say that this is not something that you are particularly prioritising at the moment. Do you think financial service providers perform well under the Equality Act requirements compared to other industries?

Rebecca Hilsenrath: We do not have that sort of information. I am not sure whether you were in the room earlier when Andy said that he had received quite a small number of complaints in this space, across the range of individual complaints under the Equality Act. We have just completed a statutory consultation in relation to our next strategic plan, which will be laid in Parliament at the end of March. Nothing came back, under that quite wide consultation, of people who wanted us to focus in this area. Is it an area of complete compliance and perfect practice? I am not here to say that, but we are looking at compliance with the Equality Act across a broad remit. I do not have the evidence to say that there are particularly egregious failings in that space.

Q291 **Catherine McKinnell:** On behalf of the Committee, I hosted an outreach event in Newcastle with disability charities, and one of the messages that came across clearly is that organisations assume that disabled customers are happy with their services, because they have not engaged with them in the way that they need to to understand their actual requirements. A big challenge is that people often rely on friends and trust to access these services. That may not be something that they will actively complain about but organisations, on their behalf, express understandable concerns with issues of trust and independence, and that these needs are not being met. I worry that having a small amount of complaints may not be a true reflection of the challenge. It may just be that these groups are not being engaged with in the way they need to be engaged with in order to be able to understand their needs. I appreciate that is not really a question, but is it something you are addressing and looking at?

Nisha Arora: We certainly are. We have just talked about our forthcoming vulnerability guidance. If we step back on the question of BSL, in one of our principles we say that firms have to have due regard to the information needs of clients. We think they have to understand their consumer needs and their customer needs. They have to ensure their communications are fair, clear and not misleading, and that has to be applied in a proportionate and appropriate way. As Rebecca said, yes, I would expect a big bank to be geared up with BSL interpreters and be able to provide a much fuller service. For a smaller operation, that might not be appropriate and it might depend on the transaction.

What this comes down to is that we think banks and firms need to have consumers' needs and interests at their heart. In our vulnerability guidance, we will be talking about part of the reason for that being to expand and flesh out what we mean by those principles, around treating customers fairly, about clear, fair communications and understanding consumers' needs. In our guidance, we will be talking about the need for firms to understand consumer needs because, if they do not understand their customers, their vulnerabilities and their needs, they cannot service them properly and appropriately. They cannot deliver the appropriate level of protection that they are required to.

Q292 **Catherine McKinnell:** My final question is for you, Andy. In your role, do you see more complaints against financial service providers than against other providers, such as energy companies? Where are the majority?

Andy Goldsby: In terms of volume, as I said earlier, it is quite low. If we look purely at service provision, the main area of complaints we get is around access to medical treatment and about hospitals, which seems to be an awful lot. You are touching on the reasonable adjustment duty here, and, echoing what Rebecca said earlier about the duty itself, one of the frustrating things our advisers have, when they are talking to individuals, is trying to say to an individual who just wants an interpreter that, actually, the law is not that straightforward. There is this element of reasonableness.

This issue does not just affect the financial services industry. For people booking appointments to see an optician or interacting with their GP, the element it always comes back to when it comes to BSL interpretation is that it is cost-prohibitive to provide an interpreter. People try to rely on the "reasonable" element of the adjustment duty to say that it is not reasonable because it is too expensive. That is our experience from the types of calls we are getting, so it is not just financial services; it seems to be across the board.

Catherine McKinnell: I guess the point of my question was about what is reasonable in those circumstances. If you are a BSL user and you need an eye test, you would consider it reasonable to be given interpretation to undertake that eye test, because it would not be possible to have it otherwise and that is a medical requirement.

Q293 **Chair:** Do you find, when you get complaints and contact organisations, whether financial services providers, opticians or the NHS, that by and large you get success in people saying they can do something to help people?

Andy Goldsby: It depends on the nature of the issue. I mentioned earlier that one of the easiest solves is around accessible formats. Once the individual is educated more about their rights, they can approach the bank and say, "You've made a mistake here. This could potentially be discrimination." If we are writing on behalf of the individual, we can get that sort of issue resolved. We hit buffers when we get a response back saying, "We feel it is not reasonable." The other organisation will say it is cost-prohibitive to provide an interpreter. Along the journey of EASS, because we are purely about informal advice and support, if that individual wishes to use their rights, we will look to signpost them to more formal legal help at that point.

Our experience is varied and there are many factors to take into consideration in the element of reasonableness. We have already touched on the size of the organisation. Even elements around how much they have spent on making other adjustments within the organisation could determine what is meant by "reasonable".

Q294 **Mr Baker:** Good morning. Can we turn to literacy and understanding terms and conditions? Can I ask the FCA in what ways you think low levels of literacy prevent people from accessing financial services?

Christopher Woolard: There are a variety of ways. The principal thing that we need to remember is, when we are dealing with the average level of maths and English literacy in the UK, it varies between 11 and 12 years old, in terms of the standard we are expecting from people. On one level, it comes as a bit of a surprise to many people when we say that. On the other hand, when you look at what is expected of a 12-year-old, there is a high degree of basic maths in there, so there is a balance in that.

Q295 **Mr Baker:** Can I pause you on that point? What does that actually mean? Does a 12 year-old understand interest rates?

Christopher Woolard: Under the national curriculum, I think a 12-year-old is expected to understand basic percentages, fractions and those kinds of things. Nevertheless, one of the questions we have when we look at banks and terms and conditions is how the language is couched within them. This Committee has already had some evidence of one bank in particular saying it had pitched previously at an 18-year-old standard, but was trying to move down to plain English that an 11-year-old would understand. That is part A of the problem, as it were.

Part B comes to the sheer length and complexity of terms and conditions, sometimes, even if they are couched in simple terms. For example, one institution that we engaged with said that the problem here was basically regulation: "You ask us, as a regulator, to put too many things into our terms and conditions." We sat down with their current account terms and conditions and that document was the size of Charles Dickens' *A Christmas Carol*. At the end, you sign and say, "I have understood all of these terms and conditions". When we went through it, a side and a half of A4 in normal type were regulatory requirements. The rest of it had all been put in by successive generations of general counsel at that firm, and no one had ever had an incentive to take words away. There is a basic maths and English literacy question here for the population at large and how people tailor to that, but there is a much broader question around the complexity generally of terms and conditions, as well as sometimes the way in which products are presented and sold.

Q296 **Mr Baker:** You have foreseen my next question, which was going to be about brevity and complexity. Even for those of us with hopefully quite high levels of literacy, things are often too long to wade through. Could you tell us more about the incentives that banks have? Why do general counsels not have an incentive to simplify?

Christopher Woolard: That is a good question because, if you look at a number of ombudsman decisions that have been made and a number of regulatory decisions that we have made over the years, they have often said, "What was upfront? What was there in the key disclosures that you gave? It does not matter if it was on page 777 or something. Let us look at what the customer could reasonably have been expected to understand about this product." In a sense, there is a false comfort in many of these complex terms and conditions.

It is also worth saying that we are seeing some best practice in some banks. Some are trying to simplify what they put in front of their customers and are beginning to see this as part of the relationship they have with the customer. It is part of how they build trust with their customers, so there are some changes there. We are also seeing some changes in the insurance market as well, with far simpler disclosures being asked of customers, rather than detailed ones that stretch over hundreds of questions.

I personally have a degree of frustration around this. We have tried a number of initiatives, including one around smarter communications a couple of years ago. We have tried to nudge and push the market to ask, "How can we help you to make these things simpler?", but the reality is there is still a lot of small print out there in the market. Much of it is probably a false comfort. I suspect, if you asked the average bank or certainly asked the average general counsel of the bank, they would find some comfort in it.

Q297 **Mr Baker:** I feel confident all of us here want service providers to exist in an environment of competition to drive them to better serve their customers. Have you given thought to the role of clarity and brevity in facilitating competition and facilitating people shopping around, particularly if they have low levels of literacy?

Christopher Woolard: We have looked less at how you look at brevity itself, but how you look around some simple measures of what kind of service you get from this bank, what outcome you get if you claim on your insurance and those kinds of questions. That is something we have been trying to encourage. Inevitably, you will encounter a degree of complexity in that, because one simple number will not give you an answer to whether this is a good bank or insurer. In a number of cases, we have tried to introduce metrics so that, even if the average member of the public does not go rushing off to the FCA website to look them up, groups like Which?, Citizens Advice and others can pick them up and give a distilled version to people to say, "This is someone who gives you a good outcome," or, "This is not someone who gets to quite the right place."

Q298 **Mr Baker:** If I understand correctly, just to play it back, you are saying that consumers' representative bodies might facilitate understanding terms and conditions to facilitate competition. I feel like we have a common understanding that it is not very likely that individual consumers will shop around based on terms and conditions. Have I understood correctly?

Christopher Woolard: It would be a stretch to suggest that individual consumers will shop around on detailed terms and conditions. We see evidence of consumers shopping around on headline interest rates you might get in a product or certain facilities that might come with a particular product, like insurance for mobile phones that comes with a current account but, realistically, once you are beyond page 1 or 2, people are not shopping around.

Q299 **Mr Baker:** I imagine that is irrespective of levels of literacy.

Christopher Woolard: Yes, absolutely. There are enough behavioural experiments we have done. We once assembled a room full of behavioural scientists and asked them to sign up to use an app. None of them apart from one actually read to the end of the terms and conditions to use the conference app.

Q300 **Mr Baker:** I feel sure we are all guilty. Have you done any studies on the effect of levels of literacy on access to financial services? If so, what did you find?

Christopher Woolard: One of the things we did is the Financial Lives survey, which Nisha leads, so she might want to talk about this in more depth. We looked at the relative level of education as a proxy for financial literacy and what that does. Do you want to say some more?

Nisha Arora: We produced a document around smarter consumer communications, which talks about how firms can make their consumer communications smarter, simplify their terms and conditions, and use devices like videos, visuals and others to make their communications simpler. As we have been talking about before, when we issue our vulnerability guidance, it will talk about how firms should communicate to customers, and it is not specific to literacy.

To go back to our vulnerability definition, we say it is broad. One of the factors is low financial capability, but there are a number of others. Reading and cognitive ability to comprehend might be influenced, for example, by mental health issues or ageing issues that mean that their cognitive abilities are declining. In our view, they will also be vulnerable and they will also need to have simpler, clearer communications. This goes back to a drive we have not just to look at this as a literacy problem, but a whole-customer-needs problem. Each firm will see a range of those customers who, for various reasons, will have cognitive or reading difficulties. We expect them to understand those customer needs and service them with the appropriate communications and simpler terms and conditions.

As Chris said, we have seen some good practice, which we will be talking about in our guidance, such as using simpler terms and conditions. For example, we have seem firms switching to phone chats, where they identify that someone is communicating in a way that suggests they cannot comprehend what is going on and need a phone communication instead. We are getting firms to use multi-channel approaches to help. Now, that is not all about terms and conditions, but it is about ensuring the customer understands what is going on, what they are signing up to and the deal they are getting. We are not looking at literacy specifically, but the broader theme around comprehension and communication.

Q301 **Mr Baker:** You picked up in your earlier evidence on ramps assisting both the disabled and those with prams. Can we talk a little about people's obligations? I am not an expert on this but, even if there are no statutory obligations for brevity and clarity, over the years surely contract law and common law will have evolved. The Chair mentioned case law earlier. Surely there are common law obligations on contracting parties to give clarity about what people are contracting to. If there are common law obligations on people, why have they not contributed to solving this problem of general counsels adding terms and conditions?

Nisha Arora: The consumer protection law, so the Consumer Rights Act, for example, requires terms and conditions to be clear and prominent. We have powers to enforce that, the CMA has powers to enforce that and we look at terms and conditions through that lens. That does not necessarily mean that 28 pages will have shrunk down to three. That has been the issue that not just the FCA but other enforcers have grappled with, as have the Government. Yes, it requires terms to be prominent and clear. It provides a level of protection for consumers, but we need to go beyond that to best practice to get to what we want to achieve. It does so much, but probably does not get us to the really good practice that we want to aim for.

Q302 **Mr Baker:** Fairer Finance has produced the Clear & Simple Mark. Have you had any reflections on this particular mark and whether it is helpful to the cause?

Christopher Woolard: There are a number of marks like that out there. They are definitely helpful in terms of guiding institutions to hold themselves against a certain standard. Does it begin to solve some of the problem here? Again, there is a danger we solve for the average. That would be a big step forward, by the way—do not get me wrong—but we also need to make sure that, when institutions are thinking about this, they are not thinking about purely the average, so it becomes a safe harbour to have dealt with the average.

There will be people who walk into bank branches and into post offices in particular—I have had personal experience of this in the past—who still, in the 21st century, are functionally illiterate. They will sign their name with a cross and the postmaster will put next to it, "This is the cross of" whoever. As Nisha was alluding to earlier, any system that we have will have standards that are pretty good for most people, but it also has to deal with the more difficult cases for customers.

Q303 **Mr Baker:** I would love to live in a world where everybody does the right thing, but one of the most remarkable things you said was about the enormous terms and conditions, of which only a page and a half were statutory. If it is not too much trouble, could you write to us and give us more information on that, because I would love to use it, because it is remarkable?

Chair: This is your final question.

Mr Baker: In that case, I will just say thank you, but you are going to write to us. Thank you very much.

Christopher Woolard: We will give you details of that.

Q304 **Charlie Elphicke:** Can I raise with you issues around the Equality Act with regards to insurance premiums? I may go a bit wider than that and look at health insurance and that market. First, we have received evidence that insurers are not complying with the Equality Act by failing to disclose the data behind how they determine their premium calculations. Do you agree with that?

Christopher Woolard: We will start and then colleagues might want to chip in as well. There are a number of angles to this. One is squarely subject to the market study that we are doing at the moment, which is around how you take a range of considerations, including things like age, into how you come to pricing and how that pricing curve works across the insurance market. I will simply note that that is there.

A series of concerns have been raised with us that go to the question of race and whether insurers are in a situation where, if you have what sounds like a traditional Anglo-Saxon name, you will be quoted a cheaper price than someone who has a name that sounds like it comes from the Middle East or south-east Asia. The evidence that we have gathered around that so far, which we published back in October, does not make us believe that there are firms that are setting out to discriminate on that basis.

However, we asked firms, in terms of putting together the algorithms that sit underneath their pricing, how they compiled that data and whether they have tested that each piece of data is compliant with the requirements that are set under the Equality Act, and a number of them could not give us that answer straightaway. One of the risks there is that, if you put rubbish into a machine, you will get rubbish out at the other end. It may not be direct discrimination but, nevertheless, if you have an input in terms of a list that would indirectly pick up on factors around race, and you place that into a decision-making engine, you may get decisions on outcomes at the other end that are not ones you would intend or that any of us would want to see.

Q305 **Charlie Elphicke:** Can we just pause there? That is interesting, but let us leave aside race, the Equality Act and that side of things for a second. Let us just focus on the health market as a whole. Is it a small market that effectively has an oligopoly in it?

Christopher Woolard: On health, Nisha may want to say a bit. There are clearly some exemptions around equalities legislation in relation to insurance that speak to this.

Q306 **Charlie Elphicke:** Let us park the equality stuff for a minute, very important though it is. Looking at the health insurance market, is it an oligopoly? Is it competitive or not really competitive at all? Is it all a stitch-up between a few large players?

Christopher Woolard: There is a range of market studies and competition studies we can do. We have never looked at the health insurance market, because we have been dealing with some other questions, for example asset management or general insurance. I am not going to confirm or deny that, because we have never looked at that from a proper investigative point of view. What is observable is that there is a relatively small number of larger players in the insurance market, and then a trail of some smaller, more specialist insurers. There are relatively small numbers, yes.

Q307 **Charlie Elphicke:** Are they all using a similar kind of model? Are they quietly, under the table, sharing algorithms with each other? You are trying to say, "How do you justify this, guys?", and they say, "Oh, we cannot tell you that. It is all very complicated." Are they well aware, amongst each other, of how they are managing their risk profiles and pricing?

Christopher Woolard: Again, this is not an issue that we have looked at in detail, so I am not going to speculate on whether firms are doing things that, bluntly, could be a breach of competition law if they were true. What we can observe, in insurance markets generally, to take it away from medical insurance, is that there is clearly a high degree of transparency between insurers. They can observe the models that others are using, simply because there are so many transactions and so many customers in those markets. There is some quite legitimate business activity in doing that, but there are also other occasions when you would look at it and ask whether it affects, more broadly, how competition is being conducted in the market. That is why, in the home and general insurance market, we are looking at the question of how pricing practices are working. That is a live investigation we have now.

Q308 **Charlie Elphicke:** Therefore, you would look at that and drill down into it. Traditionally, the whole purpose of insurance was to pool risk. As soon as you are able to price by people's conditions or situations, you are not pooling risk; you are cherry-picking. Is there an argument that, in health insurance in particular, you should have an entirely blind pooled-risk model, so that no one is allowed to do any cherry-picking and jack up premiums any more?

Christopher Woolard: I am not going to speculate on the health insurance market, for all the reasons I have just said.

Q309 **Charlie Elphicke:** What about in general terms?

Christopher Woolard: In general terms, we looked at general insurance around two and a half years ago. We looked at the use of increasingly large data sets that are cheaply available to financial services institutions and how they were affecting insurance pricing practices. They allow insurers to understand, in far more granularity than has been possible historically, how the individual risk of a customer can be calculated. Insurers have done this for years. There have always been groups that insurers believe effectively become uninsurable risks. That is why we have the Flood Re scheme for houses built on flood plains, for example.

The increasing amount of data out there allows them to make distinct judgments about where someone might be a higher or lower risk. We have said that can be neutral and lead to some good outcomes, in terms of tailoring products to individuals who may previously have just been seen as uninsurable. Where it might lead to price gouging, where an individual has no other choices or, bluntly, appears to be inert to price for whatever reason, that is something we would take very seriously as a regulator.

Q310 **Charlie Elphicke:** Developing that, let us look at types of risk that might be permissible or not. A health insurer might say, "I am going to increase your premiums because you have a risk of sickle cell anaemia," and, "I am going to increase your premiums because you have Crohn's disease". Does the Equality Act mean that the health insurer is not allowed to increase premiums for someone who has sickle cell anaemia, but is able to completely do so for the person who has Crohn's disease? Is that right when, if you are going to allow cherry-picking, it should be allowed to be priced in on an objective-criteria basis?

Christopher Woolard: There are two points to make on that, and I am also going to look along the line to my right here.

Charlie Elphicke: My question, really, is about whether there is a conundrum and how you solve it.

Christopher Woolard: The first point, as I said, is that there are certain exemptions allowed within equalities legislation in relation to insurers, how they price for risk and how they may exclude some people from insurance as well. That point is worth making. The point at which we talk about individual conditions goes beyond my personal area of expertise, so I am not going to risk an answer to that. I do not know if anyone else would like to.

Rebecca Hilsenrath: No, but I will.

Charlie Elphicke: I think that is called a hospital pass.

Rebecca Hilsenrath: My initial caveat is that this is also not an area that we have looked into or have ever run any investigatory work on, and I do not have any knowledge of it, but I am aware of the exemption under the Equality Act, which is about what is reasonable in the circumstances. I have no knowledge of specific conditions, so I cannot comment on that, and I do not have a position on whether that provision of the Act needs to be reviewed.

There are a couple of points. We would look at whether we think there is a systematic issue in terms of abuse of the insurance market. We have had conversations with the FCA about our initial concerns about insurance issues and, on the face of it, if somebody is seeking motor insurance and is asked whether they were born in the UK, that appears to be indirect discrimination to me.

The problem with looking at cases and issues that bubble up comes back to something that Chris was saying about putting rubbish in and getting rubbish out. These are very technical cases. Actually, they tend to settle. When you look at an insurance case that arises, it often settles, which means you cannot take it forward anyway. It is full of algorithmic, actuarial assessments of data that we do not have sight of. There are all sorts of underlying assumptions that we are not aware of. It is unbelievably resource-intensive, difficult, technical and expensive to assess, so it becomes an issue about proportionate investment of resources on our part, but it is something we would look at. If somebody else had evidence of that systematic, underlying unfairness in the market, it comes into that place of what constitutes a flagrant breach of somebody's rights and maintaining the independent standard of living that we would want, in talking about disabled people earlier. Those things are important to us.

Q311 **Charlie Elphicke:** What you are saying is that the insurers have security in obscurity. Their models are so complicated, you cannot really know what they are doing.

Rebecca Hilsenrath: I am not an expert on the insurance market, so I am not prepared to comment on that.

Charlie Elphicke: That is how they get away with it. They bamboozle everyone.

Q312 **Chair:** Is that something the EHRC has looked at, in the past, thematically?

Rebecca Hilsenrath: We have not, for the reasons that I have said. It is not in our strategic priorities, to be honest. I am also saying that, if evidence were provided to us of a flagrant breach, we would look at it.

Christopher Woolard: Before we move on, in terms of the work we published last October, it is absolutely that kind of work that Rebecca has referred to that is what we do. We have the resources and expertise to pick inside those insurance models.

Q313 **Charlie Elphicke:** Just moving on to look specifically at travel insurance, should customers have to disclose their pre-existing conditions if it makes no difference to the financial implication of their cover? Should consumers be spared useless nosiness?

Nisha Arora: As we said, insurers take a risk-based approach at the moment. That is the system as it is. They are entitled to ask about customers' needs and situations, and the exemption allows for that sort of risk-based approach to be taken to disabilities, as well as age. We are where we are in that market. Our work in travel insurance recognised that. We saw that, given those price differentials, people who have pre-existing medical conditions were not even aware that there were specialist insurers that could give them more affordable or suitable travel insurance. That is what we are trying to fix by creating a signposting process for those customers.

Q314 **Chair:** When is that going to happen? Is that also spring?

Nisha Arora: We will provide an update in March and further work will be published soon after that.

Christopher Woolard: We are going to months now. We will have days of the week by the end of the hearing.

Q315 **Charlie Elphicke:** On the subject of pre-existing conditions, I asked this because evidence has been presented to the Committee that individuals who have HIV have far higher travel insurance quotes when, in reality, they pose no greater financial risk to an insurer when they are going on holiday. They might have a long-term condition, but they are no more likely to drop dead on holiday than otherwise.

Nisha Arora: That is why the specialist market is important. What we have seen is not only that people value a more affordable price from that market but, actually, those sorts of insurers understand the risks more.

General insurers often do not understand the risks and perhaps do not price accordingly. The specialist market understands the risks more, can deal more sensitively with customers as well and can make sure that the insurance policies that customers are given have the right exclusions, so the right services and level of cover, which is why we think that market should be encouraged to grow and should be facilitated. There should be more signposting and awareness of it.

Q316 **Charlie Elphicke:** With respect, can I challenge that? You are saying that someone who has HIV gets massive premiums because the insurer just prices on fear. Should you not be writing a circular, a "Dear CEO" type letter, to say, "Look, do not do this kind of thing? Do not charge people with HIV. They have enough problems as it is. They are no higher risk anyway. Treat them like everyone else."

Nisha Arora: In terms of going into specifics, I am not aware we have had particular complaints. If you send us the correspondence, we will look into it, but I am not aware we have had particular complaints about particular conditions, so it is difficult to comment on that. Our work is focusing more on encouraging the specialist market, rather than delving into whether each price given for each risk and each risk assessment is appropriate. If we see egregious practices, we can tackle them, but that is not the focus of our work at the moment. Actually, there is a solution here that we want to deliver more quickly for consumers than looking at all the risk factors in a very complicated market, particularly when those sorts of issues are being picked up in our other market study.

Q317 **Charlie Elphicke:** Lastly on travel insurance, there have been some concerns that some budget travel companies in particular are quite disgraceful in how they treat people who find themselves in serious hazard overseas, refusing to fly people back, refusing to help them and just abandoning them to neglect in faraway places on the other side of the world. What are you guys doing to bring some order and stop that shocking behaviour?

Nisha Arora: Where we hear of complaints such as that, particularly where vulnerable consumers are concerned, those are the sorts of things we would prioritise and tackle with the firms in question. I do not have the specific details but, if we heard about that sort of practice, we would want to deal with it.

Q318 **Charlie Elphicke:** We have all read the newspapers. Some of these are really shocking, are they not?

Nisha Arora: Yes, and we would take them up with firms.

Q319 **Chair:** Just before I bring in Stewart, we talked, right at the start, about where people would go if they have a complaint. You said you do not have specific cases but, if somebody has a condition and they are finding it impossible to get travel insurance, the signposting service will help but, before that, are you finding that people phone the FCA or FOS? As a constituency MP, I have referred people to the ABI, but also to BIBA, the

British Insurance Brokers' Association, when people are finding it very difficult to get insurance.

Nisha Arora: Overall, in the hundreds and thousands of complaints we get each year, issues around disability and access are small. There are a handful of complaints around equality issues. Where we get those issues, we will talk to our colleagues over here and point them to sources of help. More generally when those issues come up, we will point people to FOS and sources of other advice, whether Citizens Advice or charities that might be able to help, such as Age UK or Scope, depending on the issue at hand.

Q320 **Stewart Hosie:** Nisha, the Competition and Markets Authority response to the loyalty penalty super-complaint concluded that "firms should be publicly held to account for charging existing customers much more; regulators should publish the size of the loyalty penalty in key markets and for each supplier on a yearly basis". Will you be publishing loyalty figures for each financial services sector?

Christopher Woolard: Do you mind if I take that one, because it is an area that I have dealt with? We support the super-complaint from Citizens Advice and the broad recommendation and steer that comes out of the CMA. We think that is a good thing. As the CMA also acknowledges, we have a number of investigations that are still on foot. We have finished or are just about to finish pieces of work around the mortgage market. We have pieces of work around cash savings that are finally coming into land, and we have a very large investigation ongoing right now around the general insurance market, which were the three areas that Citizens Advice particularly highlighted in what they do. The exact remedies we end up with at the end of that market study, in particular around general insurance, are still to be determined, but we are supportive of the broad thrust of where the CMA has gone, in terms of whether to make that kind of information available and what the CMA concluded.

Q321 **Stewart Hosie:** I take it from that answer that you believe that publishing the size of the loyalty penalty would encourage action from firms and consumers, or do you think that the problem of the loyalty penalty is more complex and entrenched than that?

Christopher Woolard: It is definitely the latter. In a number of areas where we have tried to tackle these kinds of issues, for example around cash savings and making public the lowest rates customers are going to find themselves on, those kinds of information remedies are part of the issue. Actually, particularly where switching is complex or a hassle for individuals, simply putting information in their hands that says they are not getting a great rate may not be the whole answer. Some wider structural remedies may be part of the issue. That is why, for example in cash savings, we proposed the idea that there should be a base savings rate, so that, once you have been sold the product, you cannot go below that.

When we were looking at the general insurance market, we were thinking particularly about vulnerability in that market. There is a complex set of questions. At the moment, the pricing curve in general insurance is broadly like that. People down at this end of the market—which is where my elbow is, for the transcript—are getting large first-time discounts as new customers. Then people at this end, where my hand is pointing in the air, are paying significantly over and above that price. On average, after five years, it is at least 70% more than those new customers. The public debate so far has tended to focus on a group of largely older customers, who have reinsured year on year on year with the same firm and are paying that so-called loyalty premium. At the other end of the scale, we have a group of people who, on the whole, are much younger, with a significantly lower income, who are far more price-sensitive and are switching every year. Simply tilting that pricing curve to flatten it out and make it feel fairer will be a line of inquiry we will have to think about carefully here.

Q322 **Stewart Hosie:** I understand the reason for the thought but, given that the hassle of changing, as you described it, is, in large measure, about perception, and notwithstanding that there are complex reasons for the loyalty penalty, and notwithstanding that you have three ongoing investigations, I cannot see why you should not be publishing the scale of the loyalty penalty across the key markets and doing that quickly. Why do you not just get on and do that?

Christopher Woolard: There are a number of things. The first is that we would like to be able to complete the investigations that we have in hand to come to the remedies that we believe are appropriate and then to be able to track and monitor how they are having an effect on the market. You could have some broad estimates today of what we think loyalty penalties may or may not be, although there are some broad estimates contained in the CMA's work now. I am not disagreeing with the general principle you are putting forward here that publishing those kinds of statistics would be a good idea, but it is a good idea as part of a wider package of remedies, so we can then track whether it is having an effect.

Q323 **Stewart Hosie:** I do not disagree about tracking the effect, but I do not want us to be sitting here in two, three or five years, when we all know that loyal customers are paying a massively increased premium for general insurance, they are paying a huge additional premium on mortgage costs and they are paying a huge additional premium on any number of others—mobile phone bills for example, when they are still paying for the handset they bought six years ago, which has been paid off four years ago. The FCA or anyone else is saying, "We still have investigations," and, "It is only part of the solution." I will leave that there. I am simply saying I do not want to be back here in a couple of years, when we have not begun to publish that.

Christopher Woolard: To reassure you, we have said around general insurance, which is the last of those three investigations, so the one at the back, by the summer—another season, I am afraid—we will have the interim conclusions. Certainly by the turn of the year, we would hope to have the final conclusions in place. That is the timescale we are working to.

Q324 **Stewart Hosie:** Similar to the reasonable adjustments being reasonable depending on the size of the institution, as we heard earlier, would action taken to tackle the loyalty penalty also depend on the size of the institution? It strikes me that the danger there is that smaller institutions, because they do not have the capacity, might come under less pressure to tackle this problem than some of the larger institutions that have the capacity to do it, even if the loyalty penalty being charged by the smaller institution is more egregious.

Christopher Woolard: It comes back to the circumstances that we are talking about. There are two issues there. You may have smaller institutions in the market, whether they are building societies versus banks or smaller specialist insurers versus larger ones, which, by the nature of their product, are more expensive across the board. They may lack economies of scale as institutions. That is distinct from how you think about the price-walking that we can observe may be going on in the market, which indeed is referred to by the CMA, and how those changes in price are presented to consumers as well. For the latter two issues, I do not think scale is a relevant factor. If there is egregious behaviour going on it needs to be addressed, but the pricing you might see from individual institutions depends on the economies of scale they can achieve.

Q325 **Stewart Hosie:** We all recognise that. The CMA has also said on insurance that, "The FCA must look closely at these pricing practices in its current market study and take action to prevent people being exploited by firms. This should include considering pricing interventions." What is the FCA's response to that, and do you plan to address pricing practices through pricing interventions? If not, why not?

Christopher Woolard: That is the major investigation we have ongoing at the moment. Within the terms of reference is absolutely the ability to consider pricing interventions. We have to gather the evidence and conclude on that.

Q326 **Stewart Hosie:** When will that general insurance investigation be complete?

Christopher Woolard: That is the one I just referred to as in the summer and then the turn of the year for the final conclusions.

Stewart Hosie: By the turn of the year, we will have some indication of what you might do, depending on the specific problem you identify.

Christopher Woolard: Yes.

Q327 **Chair:** I have two final questions, probably for the FCA, unless our other witnesses have had experience of this—particularly complaints from Mr Goldsby's point of view. One was about basic bank accounts. In your written evidence, you detailed that some consumers may not want a current account because they have "got into difficulty with an overdraft". However, the counterview to that is about whether it is right that a majority of providers of basic bank accounts will not let a consumer open one unless they have failed a credit check for a traditional account, i.e. you have to be set up for failure first before you get a basic bank account, whereas there might be some people who know instantly that a basic bank account is right for them.

Christopher Woolard: The criteria for opening a basic bank account will vary slightly between providers. For some of them, individuals can present themselves and say, "I am interested in a basic bank account, thank you very much." As you alluded to, a basic bank account comes, by law, without an overdraft facility on it in the first place.

There is a slightly wider issue and question here, which is less about setting people up for failure in the first place and more around how we think about grounds for refusal of basic bank accounts or how that account-opening process is working, because there is clearly a variation between institutions. I cannot say any more at this point in time, but that is something we are taking an active interest in.

Q328 **Chair:** We had some evidence from a panel where we had Monzo and Lloyds, which were talking about the identification requirements for bank accounts. Again, there was the point about vulnerability, people who have come out of prison and people who may be suffering from homelessness or in a hostel. There is a need for an address. Has the FCA looked at this issue of identification or lack of a secure address being a barrier to opening an account, which is a basic thing that people need to feel engaged and able to participate in society? Is that on the radar as well?

Christopher Woolard: We have done some work in this space and Nisha will say a bit more about it in a moment. More broadly, in work with a variety of people, including the Prince's Trust and people like that who are involved in trying to settle offenders post prison, this is clearly one of the obstacles to being reintegrated into society, absolutely.

Nisha Arora: We have done some work around exactly that: identification for vulnerable consumers, particularly ex-prisoners or people who might not have traditional papers, and trying to make sure that the anti-money laundering requirements are not used as a defence to everything, and that firms are taking a risk-based but flexible approach to that and are not making excuses. We have done some work around that already, working with the AML task force.

Q329 **Chair:** Another area that we will probe and cover in the report is around use of powers of attorney. Have you been getting views or working with financial service providers in terms of how they should be helping customers, some of whom will have a formal power of attorney in place, others of whom, in a way going back to Catherine's point, may need other people to help them to access financial services? That obviously places them in a vulnerable place. How is that being addressed?

Nisha Arora: When we produced our ageing population paper a couple of years ago, this was one of the key issues that we looked at. As you say, there is a lot of confusion, because there are different types. There are lasting powers of attorney, a third-party mandate and then consumers turning to informal coping mechanisms. Yes, they could be great, but they also bear risks around them. Both firms and consumers were finding them quite hard to navigate and understand what the evidential requirements are, seeing inconsistencies in what evidence was needed and how firms would deal with those situations.

Two initiatives have happened, following on from that work. One is that UK Finance has published some principles around third-party access. Those are meant to be implemented fully in March this year, but actually the Lending Standards Board has already initially reviewed that and seen quite good progress. There are still issues around that and people still having to go into a branch to register. There are different approaches again, so further work still has to be done there.

We are also working with the UK Regulators Network to try to get some more consistency on this issue between regulators, bearing in mind that the financial services sector might bear greater risks compared to other sectors. We are pushing that piece of work, which I think will be published in April, but again that is around consistency in processes and policies. That will also help frontline staff really understand these issues.

Again, it comes back to the consumer needs point. A lasting power of attorney may not be the thing for everyone; there may be other flexible options. It is giving staff the confidence to use those flexible options to meet consumer needs, but then bearing in mind the risks that might come with, say, a family or friend who might be trusted or might not be. That is the sort of guidance and confidence we want to give firms, so that they can deliver for different customer needs.

Q330 **Chair:** When you see an institution that does it well, do you hold them out? Obviously a lot of your job is spent criticising or saying to people, "You could do more," but there are some that do things well.

Nisha Arora: The UK Finance work will pull those firms out. The Lending Standards Board has done a review, which will expose that. Again, our vulnerability guidance will not all be about knocking people. A lot of it will be about trying to get firms to learn from best practice and trying to get firms to innovate. We will be giving high-level steers on what we want to see, but allowing that flexibility and allowing people to go beyond the floor—we talked about terms and conditions—and beyond what the law requires to best practice that meets consumer needs.

Chair: Can I thank our panel very much this morning? It has been really interesting, and I hope we will produce a report that is useful to all those here and all those who have been taking note of our evidence. Thank you for now.