HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Harriett Baldwin MP
Chair of the Treasury Committee
House of Commons
Westminster
London SW1A 0AA

07 February 2024

Dear Harriett,

SEXISM IN THE CITY INQUIRY

Thank you for your letter of 30 January 2024, relating to the Sexism in the City inquiry and the evidence that I provided on 17 January.

Regulatory investigations [Q279]

You asked whether the Treasury is aware of 'privileged investigations'. I understand this question to pertain to the concept of Legal Professional Privilege (LPP), which of course is not specific to investigations carried out by financial services firms. LPP is a form of confidentiality, whereby communications between lawyers and their clients for the purpose of giving and receiving legal advice cannot be disclosed in legal proceedings, unless the client chooses to waive their right. This is an absolute right and forms a key tenet of the UK legal system. There are very limited exceptions to its application.

When a firm investigates a claim of misconduct in relation to a member of staff, it may choose to instruct lawyers to provide legal advice in respect of that investigation. Communications between the lawyers and their clients (the firm), or documents created for the main purpose of litigation, may become subject to LPP.

In all cases, including where a regulator is carrying out an investigation into the same issue, there are independent safeguards in place to ensure LPP is both protected and asserted correctly. For example, where the regulator, as part of an investigation, seizes documents and the firm asserts LPP over that material, independent counsel might be called upon to determine whether all or part of these documents are subject to LPP, allowing the non-LPP documents to be released to the regulator.

Women in Finance Charter Blueprint [Q247]

You asked whether I thought that signatories to the Women in Finance Charter should be required to report on the extent to which they have adopted elements of the Charter Blueprint.

I would like to emphasise the importance of the industry-led Women in Finance Charter Blueprint and state that I would like to see all firms utilise it to accelerate their respective journeys.

The Charter operates on the principle that individual signatories are best placed to make the right decisions for their own businesses. The Charter therefore enables each signatory firm to implement their own tailored strategies to achieve their self-declared targets while ensuring firms are held accountable by requiring publication of their progress, both on their own website and via HM Treasury's Annual Review.

The government wants to ensure that reporting remains proportionate and fair, to encourage participation in the scheme. Due to this, it is not the government's position that signatories should be required to report on the extent to which they have adopted elements of the Blueprint.

Harassment and misogyny [Q257]

Whistleblowing

You asked what steps the Treasury would like the FCA to take to ensure that its communications on whistleblowing options are clear and effective, and how the Treasury would support the FCA.

Firstly, I would like to assure you that the FCA already has strong protections in place for whistleblowers, and already sets out rules and guidance for the firms the FCA regulates in relation to whistleblowing systems and controls.

The government has launched a review into the wider whistleblowing framework, and it is right this review is concluded before the government considers what changes, if any, it wishes to deliver, and how these may be implemented.

The government will continue to work closely with the regulators on all regulatory initiatives, including action to ensure appropriate protections are in place for whistleblowers, and that any whistleblowing is properly investigated.

Regulator powers to address non-financial misconduct

You asked whether the government would be prepared to legislate to provide the FCA with wider legal powers to deal with non-financial misconduct. It is the Treasury's view that the FCA already has the appropriate powers.

As the committee will be aware, the regulators have proposed new rules to tackle non-financial misconduct, including proposals to better integrate non-financial misconduct considerations into staff fitness and propriety assessments, Conduct Rules, and the suitability criteria for firms to operate in the financial sector (Threshold Conditions).

Given the action that has already been undertaken, the government has not seen any evidence that it is necessary to expand the FCA's legal powers.

The government and the regulators remain in close contact about action to ensure that the financial services sector is well-regulated and to consider the case for any changes to the regulatory framework.

I hope that you find this further information useful to your inquiry.

Yours,

Charlotte

BARONESS VERE OF NORBITON