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Treasury Committee

Sexism in the City: HM Treasury, Prudential Regulation Authority and Financial Conduct Authority Responses to the Committee's Sixth Report

Fifth Special Report of Session 2023–24

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The Treasury Committee

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Contents

Fifth Special Report 3

Appendix 1: Response from HM Treasury 3

Appendix 2: Response from the Prudential Regulation Authority 11

Appendix 3: Response from the Financial Conduct Authority 16

Fifth Special Report

The Treasury Committee published its Sixth Report of Session 2023–24, *Sexism in the City,* (HC 240), on 8 March, International Women's Day. On 7 May HM Treasury, the Prudential Regulation Authority and the Financial Conduct Authority each provided responses to that Report. The responses are appended to this Special Report.

Appendix 1: Response from HM Treasury

The Government welcomes the Treasury Select Committee Sexism in the City report. The Government's responses to the Committee's recommendations for Government are set out below.

In particular, the focus of the Charter on female representation at just the senior management level is too narrow. There needs to be greater focus on ensuring there is a pipeline of female talent to support long-lasting, sustainable improvement in gender diversity in the sector. We therefore recommend that the Treasury extends the scope of the Women in Finance Charter to cover female representation at different levels of seniority. (Paragraph 44)

We agree with the Committee that a strong pipeline of female talent is key to supporting long-lasting, sustainable change. However, we remain unpersuaded that expanding the scope of the Women in Finance Charter is the right way to drive more change and increase the impact of the Charter.

HM Treasury already recognises the talent pipeline as one of the key, sustainable drivers for change. This is illustrated in the language of the Charter: 'The Charter reflects the government's aspiration to see gender balance at all levels across financial services firms.' HM Treasury has encouraged and will continue to encourage signatories to build a sustainable talent pipeline through communications, events and engagements. For example, in September 2023, HM Treasury and the London Stock Exchange Group organised an event focused on the talent pipeline.

Recent Women in Finance Charter Annual Reviews have also found that signatories already recognise the importance of the talent pipeline and, more importantly, they are acting on this. Information provided by signatories shows they are increasingly seeking to nurture their female talent through actions such as measuring the impact of learning and development programmes and improving transparency of career pathways and internal job moves.

Moreover, resources like the Women in Finance Charter Blueprint, developed by Nishma Gosrani at Bain & Company for Amanda Blanc's Accountable Executive Taskforce, provide useful insights on effective actions that firms can take to strengthen their talent management practices and their talent pipelines. Our Industry Board also engages with their sub-sector charter signatories on a regular basis, delivering deep dive sessions and bringing in best practise examples and speakers to the insights from the Blueprint.

We see clear benefits in retaining the Charter's sharp focus on senior representation to ensure more, and faster, progress is made at the senior management level, which is

pivotal to wider change. The 2023 Annual Review revealed that Charter signatories have increased female representation to 35% on average, up from 34% in 2022. While positive and consistent, this one percentage point average increase year-on-year is slow; at this pace, the signatory average would reach parity in 2038 and, even then, only across some sectors. We know it is possible for firms to move faster, and we showcase those that have made great strides in the 2023 Review.

Extending the scope of the Charter would require signatories to submit additional data to HM Treasury on an annual basis, increasing the burden on firms and potentially making the Charter less attractive to new signatories. We will continue to engage closely with the Charter's signatories, Industry Board and Accountable Executive Taskforce to consider how best to garner these insights by other means.

We heard that linking senior executive pay and bonuses to performance on diversity and inclusion can be an effective way to incentivise change, though this practice is not currently widespread. One of the Women in Finance Charter principles is for firms to have an 'intent' to link pay to delivery on gender diversity targets. Eight years on from the launch of the Charter, we think it is now time to sharpen this principle to increase its effect. We therefore recommend making the link to executive pay a firmer commitment under the Charter, on a 'comply or explain' basis. (Paragraph 45)

We agree with the Committee that linking senior executive pay and bonuses to performance on diversity and inclusion can be an effective way to incentivise change. HM Treasury has continually ensured that accountability sits at the heart of the Women in Finance Charter.

Currently, signatories are asked to link their executive pay to delivery on gender diversity targets during the onboarding process; signatories who choose not to have a link to pay are then required to provide an explanation. In the latest Annual Review, 84% of signatories recorded having a link to pay, an increase of 3% compared to 2023 data, of which 70% stated they believe this is effective. In addition to this, HM Treasury tracks how signatories are adhering and performing against their Charter commitments on an annual basis. This further requires firms to update the department on how they are approaching the link to pay principle regularly.

HM Treasury will continue to ensure that a link to pay remains central to the Charter and will continue to hold firms to account.

We recommend that the Government and regulators encourage all firms to consider equalising their offer of parental leave for men and women, and to actively encourage more men to take it up. We also recommend that the Government and regulators encourage firms to be transparent about their maternity and parental leave policies, including when advertising roles, by publishing them on their company websites. (Paragraph 76)

(1) The Government recognises that fathers and partners play a crucial role in the first year of their child's life, through supporting the mother as well as caring for and developing a relationship with their child.

The Shared Parental Leave and Pay scheme gives working families much more choice and flexibility about who cares for their child in the first year, and when.

The Shared Parental Leave entitlement challenges the assumption that the mother will always be the primary carer and enables working parents to share up to 50 weeks of leave and up to 37 weeks of pay in the first year of their child's life, if they wish. This enables mothers who want to return to work early (i.e. by choosing to take less than their full maternity entitlement) to do so and enables fathers and partners to be their child's primary carer if the parents wish.

The number of parents taking Shared Parental Pay is in line with predictions made when the policy was introduced and has doubled between 2015–16 and 2021–22. To support the scheme, in June 2021, the Government introduced the Shared Parental Leave tool which allows parents to check their eligibility and plan their leave.

Parental leave and pay entitlements are a floor not a ceiling, and the Government encourages employers to go further where possible. Employers with strong parental leave policies, which may include equal parental leave, report benefits for their businesses including for recruitment and retention.

(2) The Government acknowledges that greater transparency about family friendly policies may be helpful to some people looking to enter or return to the workplace. That is why the Government's "Good Work Plan: Proposals to support families", consulted on the introduction of a new requirement for large employers (250+ employees) to publish their family friendly policies.

The consultation responses demonstrated that employers (particularly those employing staff across a variety of job roles) need the flexibility to be able to adapt their family friendly policies to specific workplace scenarios and points in time. The consultation also highlighted concerns from an enforcement perspective and potential unintended consequences. For instance, there are inherent practical and technical issues in defining what should be published - what constitutes a policy?–and that this was something best left for individual employers to determine, given their own specific situation.

The Government's wider policy aim is to encourage sensible conversations between employee and employer and what can work best in meeting both parties' requirements. On balance, the Government concluded that imposing a one-size-fits-all approach to publishing family friendly policies runs the risk of tying the hands of employers and employees to have those discussions and reach sensible conclusions.

We recommend that the Government and regulators encourage firms to undertake equality impact assessments on their flexible working policies and the interaction with diversity and inclusion within their firm. (Paragraph 79)

The Government has not made an assessment of the impact of equality impact assessments on flexible working and has no plans to require firms to undertake equality impact assessments.

The flexible working changes that were introduced on 6 April will help to promote diversity within the workplace. The Employment Relations (Flexible Working) Act makes changes to the flexible working provisions in the Employment Rights Act 1996 to:

- introduce a new requirement for employers to consult with the employee before rejecting their flexible working request;

- allow an employee to make two statutory requests in any 12-month period (rather than the current one request);
- reduce the decision period (within which an employer administers the statutory request) from three months to two months; and
- remove the existing requirement that the employee must explain what effect, if any, the change applied for would have on the employer and how that effect might be dealt with.

In addition, all employees are now able to request flexible working from day 1 of a new job, bringing an estimated 2.6 million more employees in scope of the entitlement.

Guidance provided to employers to support them to close their gender pay gaps suggests further analysis which employers may want to do. This includes potentially assessing the progression of part-time employees, variance in the take up of flexible working, and using staff surveys to identify differences in awareness of flexible working policies and support for take-up.

We recommend that the Government and regulators encourage firms to advertise as many roles as possible to be available on flexible and part-time bases, as a way to attract and retain as wide a talent pool as possible, especially women. (Paragraph 80)

The Government consulted on whether employers should be required to list the available flexible working opportunities in job adverts in 2019. Having reviewed consultation responses from a range of stakeholders and taken account of the impact of the Covid-19 pandemic, the Government decided not to take forward a legislative requirement.

Instead, we are giving employees the right to request flexible working from their first day of employment through regulations. This right came into force on 6 April 2024 and should encourage employers and employees to have conversations about flexible working during the recruitment process.

In parallel with this, the Government, along with the Flexible Working Taskforce,[1] is actively promoting "Happy to Talk Flexible Working" including through the Help to Grow website. This encourages employers to tell candidates that they are open to flexible working by using the Happy to Talk Flexible Working logo and strapline. The associated webpages take employers through a high level business case and provide simple advice on how to design and advertise a flexible job.

More information on the implications of the legislative changes and the business case for flexible working can also be found on the Help to Grow website.

We recommend that Government continue to encourage firms to recognise the impact of menopause and to establish policies and support for those who are affected to ensure that their experience and talents are not prematurely lost from the industry. (Paragraph 82)

1 Acas, Age UK, British Chambers of Commerce, Cabinet Office, Carers UK, CBI, Chartered Institute of Personnel and Development, Chartered Management Institute, Department for Business and Trade, Department for Work and Pensions, Department of Health and Social Care, Equality and Human Rights Commission, Federation of Small Businesses, Government Equalities Office, HM Treasury
Institute of Directors, Make UK, Recruitment and Employment Confederation, Scope, Timewise, TUC, Working Families

In March 2023, the (then) Minister for Social Mobility, Youth and Progression appointed Helen Tomlinson as the Government's first Menopause Employment Champion. The Menopause Champion is driving awareness of issues surrounding menopause in the workplace; encouraging employers to develop policies that create a more supportive environment to help women stay in work and progress. The Government is committed to continue to work with business to ensure all women have access to workplace support–as demonstrated by the Menopause Employment Champion's Four Point Plan, designed to improve support for people affected by menopause in the workplace

In addition, DWP recently launched new guidance on the Help to Grow portal, empowering businesses to educate their organisation about menopause.

The Department of Health and Social Care continues to identify menopause as a priority area in the second year of the Women's Health Strategy, and Government more widely sees women's health, and particularly menopause, as an essential factor when supporting the recruitment and retention of older women in the workforce.

We therefore recommend that the Government strengthens the pay gap reporting regulations to incentivise firms to make faster progress. Specifically, we recommend it be made mandatory for firms with a pay or bonus gap above a certain threshold to publish a narrative explaining the drivers of the gap(s) and an action plan for how they will reduce them. We also recommend that the employer size threshold for pay gap reporting be reduced from 250 employees to 50 employees, at least for firms in financial services given the extent of the problem in this sector. (Paragraph 107)

We agree with the Committee that reporting alone will not reduce the gender pay gap and that employers need to take action; however, in line with the conclusions of the post-implementation review of the reporting regulations, we believe it is too soon to make changes to the requirements.

On the specific recommendation regarding mandatory action plans for specific subsets of employers, we do not believe it would be fair or effective. There are many causes of the gender pay gap and employers should look at the causes in their own workforce to identify how best to tackle them. Introducing mandatory action plans would increase the burden on businesses and risks creating nothing more than a tick box exercise. Furthermore, tying additional mandatory action to the size of an organisation's gap risks targeting the wrong organisations, given that the size of an organisation's pay gap may not accurately reflect the efforts they are making to close it, but instead broader trends. For example, the Committee heard from organisations in the sector who have introduced significant initiatives and changes. However, their data is still impacted by the wider lack of gender diversity across the sector. It would be unfair to expect organisations in these circumstances to repeatedly account for their data, while organisations with lower gaps, purely by virtue of the sector they operate in, are spared this additional level of accountability.

With regard to the threshold of 250 employees, this number is set within the primary legislation and crucially aligns with more widely adopted definitions of a large employer. While we recognise the importance of encouraging action to close the gap by smaller organisations, there are statistical and practical reasons why introducing mandatory reporting for these organisations may not be the best route.

Reporting on such a small number of employees is inadvisable as individuals may become identifiable in the figures. Furthermore, the figures become exceptionally sensitive to individual staff moves, making them prone to large fluctuations and less reliable as the basis of trend level data.

While we have made efforts to reduce the burden of reporting for organisations, it is still an additional task which, for a smaller organisation, can require significant resource. Given that HR and pay and reward functions in these organisations are likely to be limited, we believe their time is best spent embedding interventions which have proven to be effective at closing the gap.

We repeat our predecessor Committee's recommendations that the Government considers amending the pay gap reporting guidance so that partners' remuneration is included, and that the granularity of pay gap reporting be increased to provide more clarity around where pay gaps exist within firms and incentivise more targeted action to reduce them. (Paragraph 108)

We have always been clear that the mandatory gender pay gap reporting requirements are just a starting point. In order for the requirements to be applicable to all large organisations, c10,000 employers, they have been designed to provide the most accurate reflection of the gap in the widest range of employment and company arrangements. We believe it is better that further analysis remains voluntary. This enables us to balance the burden on businesses while in no way preventing larger firms with greater capacity from going further.

n responding to the previous recommendation we highlighted that many firms already voluntarily published additional data including partners. We are pleased to say that this continues to be the case, and has now become an expectation.

Similarly, since the committee's last report we have also published further guidance on *'how to understand your gap'*. This provides recommendations of additional calculations that organisations could do, and what they may indicate about the drivers of their gap, thus enabling them to take more targeted actions.

While we recognise the Government's plans for a pay transparency pilot as a first step to exploring these issues, we are concerned by the lack of progress since the pilot was announced two years ago. Given the very clear case for action, the Government should act now rather than await the outcome of a pilot scheme that will include just a single organisation. We recommend that the Government introduces legislation to mandate the inclusion of salary band information on job advertisements, and to ban prospective employers from asking for salary history as part of the job application process. (Paragraph 110)

We do not believe that moving directly to legislation is appropriate at this time as it would not give organisations sufficient time to work through historic pay arrangements in a way that is fair for all staff, and increases the risk of a backlash to what should be a positive measure. Pay transparency is often the end rather than the beginning of a process. We know that many employers will be contending with historic pay decisions, may not have agreed pay scales, and could have legitimate reasons why they do not include pay information on job adverts.

Pay transparency is still an emerging area, and we do not yet know whether there could be unintended negative impacts; we are aware that several countries are exploring legislative options, and therefore believe it makes sense to first learn from their experience.

We have heard that whistleblowing processes within financial services firms are often ineffective at tackling bad behaviour or protecting those who report harassment. The Government is undertaking a review of whistleblowing laws, and we strongly recommend that the Government seeks to strengthen whistleblowing legislation to provide greater protection and support to whistleblowers in sexual harassment cases. (Paragraph 160)

The Government recognises how valuable it is that whistleblowers are prepared to shine a light on wrongdoing and believes that they should be able to do so without fear of recriminations.

The Employment Rights Act 1996, amended by the Public Interest Disclosure Act 1998 (PIDA), gives legal protection to those who speak up in the public interest. Types of wrongdoing include criminal offences, the endangerment of health and safety, causing damage to the environment, a miscarriage of justice, or a breach of any legal obligation.

The legislation is intended to build openness and trust in workplaces by ensuring that workers who hold their employers to account are treated fairly. In many cases, employers respond appropriately when concerns are raised by their employees.

Where they do not, the legislation provides a remedy for claimants who suffer detrimental treatment by their employer after 'blowing the whistle'. Workers who believe that they have been dismissed or otherwise detrimentally treated for making a protected disclosure may be able to complain to an Employment Tribunal who can award unlimited compensation.

The Government has continued to make improvements to the whistleblowing framework to make it more robust and increase support for whistleblowers. For example, in 2017, the Government introduced a new requirement on prescribed persons to report on the whistleblowing disclosures received.

As the Committee notes, the Government is currently reviewing the whistleblowing framework. The aims of this review are to examine the effectiveness of the whistleblowing framework in meeting its original objectives which are, to facilitate whistleblowing, protect whistleblowers against detriment and dismissal; and to facilitate wider cultural change around whistleblowing. The review will provide an up-to-date evidence base to inform government about policy choices to develop and improve the whistleblowing framework. The full Terms of Reference are publicly available at: https://www.gov.uk/government/publications/review-of-the-whistleblowing-framework/review-of-the-whistleblowing-framework-terms-of-reference.

We are pleased that the Government is looking at ways to prevent this abusive use of NDAs, and we recommend the introduction of legislation to ban the use of NDAs in harassment cases. (Paragraph 167)

The Government shares concerns that NDAs are being used to intimidate victims of discrimination and harassment into silence and is already taking action.

As the Committee recognises, the Government has taken significant steps to prevent the use of NDAs in certain circumstances including in higher education, where students are in a particularly vulnerable position. The Higher Education (Freedom of Speech) Act 2023 will prevent HE providers using NDAs with staff, students, and visiting speakers in cases of sexual abuse, harassment or misconduct, and other forms of bullying or harassment. This is expected to take effect in August 2024.

The Government has also committed to bringing forward legislation to clarify that NDAs cannot be legally enforced if they prevent victims from reporting a crime and to ensure information related to criminal conduct can be discussed with the following groups without fear of legal action:

- Police or other bodies which investigate or prosecute crime.
- Qualified and regulated lawyers.
- Other support services such as counsellors, advocacy services, or medical professionals, which operate under clear confidentiality principles.

There is, however, a legitimate place for clauses that protect commercially sensitive information, ideas or intellectual property in business transactions and disputes involving negligence claims.

In the employment context, NDAs tend to be used in settlement agreements between an employer and an employee or worker at the end of an employment relationship. For a settlement agreement to be valid, it is a requirement for the individual to receive advice from a relevant independent adviser.

There are legal limits to how NDAs can be used in an employment context, which means they are void and unenforceable in certain circumstances. An NDA will most likely be unenforceable to the extent that it seeks to prevent workers from reporting a crime to the police or cooperating in a criminal investigation, as this could be an attempt by the employer to pervert the court of justice or conceal a criminal offence.

An NDA would also be unenforceable if it sought to prevent a worker from blowing the whistle by making a protected disclosure about wrongdoing to one of the categories of person set out in legislation, such as, a lawyer in the course of taking advice, or certain regulatory bodies or other prescribed person for whistleblowing purposes.

There is comprehensive guidance available on NDAs that has been published by the EHRC and by Acas, the Advisory, Conciliation and Arbitration Service. The guidance makes clear that NDAs should not prevent individuals from making certain disclosures, including to the police as well as to medical and legal professionals. It seeks to address concerns that individuals, and some employers, are not aware of the legal limitations of NDAs.

When it comes to sexual harassment and discrimination, it is important to recognise that individual circumstances vary. The Government consultation on "Confidentiality clauses: measures to prevent misuse in situations of workplace harassment or discrimination" in 2019 also heard evidence that many employees who sign a settlement agreement at the end of their employment with an organisation value the inclusion of confidentiality clauses, as they allow them to move on and make a clear break.

Appendix 2: Response from the Prudential Regulation Authority

Dear Dame Harriett

I am writing in response to the Treasury Committee's (Committee) report published on 8 March "Sexism in the City", and particularly with respect to comments on our consultation paper CP23/20: Diversity and inclusion in the financial sector–working together to drive change'. I welcome the Committee's report and the recognition that regulators have a role to play to help support improvements in this important area, not least given the many very concerning examples of poor industry practices and culture highlighted in the Committee's report. I also appreciated the opportunity to discuss our work with the Committee at your hearing in January.

I thought it would be helpful to start by setting out where we are in our consultation process, before responding to the specific recommendations from the Committee relating to the PRA's work.

The legal basis for our CP proposals are the powers we have been given by Parliament under the Financial Services and Markets Act 2000 (including as amended by the Financial Services and Markets Act 2023) (FSMA). The PRA's primary objectives under FSMA are promoting the safety and soundness of PRA-authorised persons and, in the case of insurers, contributing to securing policyholder protection. The PRA's secondary objectives relate to facilitating competition, growth and international competitiveness. With this in mind, the overarching purpose behind our proposals is to advance these objectives. As a result, our work has focused specifically on the role the PRA might be able to play to help ensure firms' practices support prudent decision-making.

The CP explained our view that more diverse and inclusive firms could help to reduce potential 'groupthink', supporting more effective and prudent decision-making and risk management, and thereby supporting our primary objectives of promoting safety and soundness and contributing to policyholder protection. The consultation also sets out our view that the proposals would facilitate our secondary objectives in relation to effective competition between firms, international competitiveness and growth. We explained our view that improvements in diversity and inclusion could help firms understand better the markets in which they operate and the customers they serve, thereby informing greater innovation. The CP also noted our view that the proposals could help firms to attract and retain a wider range of high-quality staff, supporting competitiveness.

Throughout the development of our proposals in this area, culminating in the CP, we have fully recognised the need to explore the issues carefully with an extensive range of external stakeholders. To engage as wide a range of stakeholder views as possible and to inform our views, the PRA and FCA published a Discussion Paper (DP) in July 2021. This received 184 responses from firms, industry organisations, consultancy firms, thinktanks, interest groups, academics and other individuals. In addition, in October 2021, the PRA and the FCA conducted a survey of how different types of firms currently approach diversity and inclusion including data collection, which received 278 responses from firms regulated by both the PRA and FCA.

Most respondents to the DP were supportive of the case for regulators to take action to help improve firms' diversity and inclusion, and supported many of the ideas explored in the DP on how the regulators could contribute. Evidence from the DP responses, the survey, research, and evidence from other Government initiatives (such as the Women in Finance Charter and the Parker Review) were all carefully considered when formulating our CP policy proposals and we explained in our CP how we had taken the DP feedback into account.

We are currently considering 78 responses to the CP and a further 16 that were sent to the FCA by firms regulated by both the PRA and FCA. In addition, we are considering feedback from industry roundtables and other engagement with stakeholders during the consultation period. Alongside this other feedback, we will carefully consider the Committee's recommendations in determining any next steps, about which no decisions have yet been made.

Let me now address the report's specific recommendations that relate to the PRA:

We recommend that the regulators drop their plans for extensive data reporting and target setting. In our view, a lack of diversity is a problem that the market itself should be able to solve without such extensive regulatory intervention. Boards and senior leadership of firms should take greater responsibility for improving diversity and inclusion given that it should lead to a competitive advantage in the development of talent. Firms that perform best on diversity and inclusion and have the best cultures should be able to benefit from the clear business advantages this provides, leaving those that perform badly in these areas to suffer the consequences for their reduced competitiveness and profitability.

We thank the Committee for its recommendations in relation to data and target setting, which were one part of the wider package of proposals in the CP. We will consider these recommendations carefully alongside the other responses to the CP when finalising our policy.

In the meantime, I can perhaps usefully clarify the motivation for our proposals in relation to data collection and reporting, target-setting and culture, given the Committee's focus on whether firms should be left to make their own improvements in this area.

Our data collection, disclosure and reporting proposals had two main aims. First, we proposed to use reported data to produce an aggregated industry-wide benchmarking report to help firms, supervisors and other stakeholders assess where firms stand in terms of their progress relative to peers. Alongside our proposed firm diversity and inclusion disclosure requirements, this has the aim of improving diversity and inclusion practice, market discipline and transparency. Second, we proposed that reporting of data to us could help build an evidence base that could improve the effectiveness of any regulatory intervention on our part. We recognised in the CP that, while there is evidence on the benefits of diversity, not all of it is conclusive, and that the evidence base is limited in part due to a lack of detailed, consistent and accurate data.

Our assessment when considering potential options for consultation in this area was that the market was finding it difficult to improve diversity and inclusion. The DP notes that data on many aspects of diversity are poor in the financial services sector, making it challenging for individual firms to assess their own position.[2]

Several organisations and reports have also emphasised the value of data collection. For instance, the recently published report by the Inclusion at Work Panel, commissioned by the Minister for Women and Equalities, outlines a recommended framework for diversity and inclusion success and notes that gathering evidence systematically and comprehensively is a criterion for embedding evidence-informed practice. The report outlines that gathering data "allows organisations to identify context-specific problems within their own organisation", which "allows employers to target interventions proportionately to address problems, while reducing the use of resources on addressing inconsequential or absent issues." In another example, the Women in Finance Charter's Blueprint outlines that embedding DEI involves "a… data-led approach" reliant on "high-quality data."

Data reporting was one area where our proposals were informed by evidence drawn from experience in other sectors. For example, the Solicitors Regulation Authority has required law firms to collect, and report, diversity data for about twelve years. This period has seen an improvement in the diversity of the solicitors' profession.[3] In addition, the SRA produces a diversity data tool which outlines the diversity of the profession, enabling firms to benchmark their progress and informing other stakeholders.[4]

In relation to targets, the CP proposed that the largest firms would be required to set their own targets where they identify under-representation, subject to an expectation of targets being in place for women and ethnicity if under-representation was identified. In relation to targets, there were 89 responses to our DP questions relating to target-setting, 71% of which agreed that targets were important for driving progress on diversity and inclusion. A further 16% respondents had a balanced view as to the pros and cons of setting targets, whilst 13% were opposed. Many DP respondents considered that it would be useful for regulators to set out consistent principles for setting targets. However, they also noted–and we agree–that firms should have autonomy to set their own targets. Importantly, the CP made clear that under our proposals, it would be up to firms to decide what targets were appropriate to their specific context. None of the proposals in the CP included the regulator setting numerical targets or quotas for any firm. Further, we proposed to set no requirements on individuals to provide data to their employer firms. Where firms report or disclose on 'gender' and 'gender identity' we proposed to leave it to firms to consider how to define these characteristics for themselves and their employees. This is of course a particularly sensitive area where we will continue to consider the position carefully, including in light of the Committee's recommendations.

2 Many firms are not collecting data that could help them understand what steps they may want to take to improve their diversity - The Inclusion at Work report outlines that one of the barriers, cited by firms, to doing "..the right thing" was little or no data.

3 See the Solicitors Regulation Authority Diversity in the profession page

4 The firms who are using diversity data have said that they are better able to: identify barriers that prevent the development of all available talent; win business by showing their commitment to diversity; prevent costly discrimination claims by identifying problems early and strengthen their reputation. SRA | Benefits of diversity in the profession | Solicitors Regulation Authority The SRA law firm diversity data tool can be found here SRA | Law firm diversity data tool | Solicitors Regulation Authority

We recommend that the Government and regulators encourage all firms to consider equalising their offer of parental leave for men and women, and to actively encourage more men to take it up. We also recommend that the Government and regulators encourage firms to be transparent about their maternity and parental leave policies, including when advertising roles, by publishing them on their company websites.

We recommend that the Government and regulators encourage firms to undertake equality impact assessments on their flexible working policies and the interaction with diversity and inclusion within their firm.

We recommend that the Government and regulators encourage firms to advertise as many roles as possible to be available on flexible and part-time bases, as a way to attract and retain as wide a talent pool as possible, especially women.

We agree with the Committee that firms' policies on parental leave and flexible working could help firms improve diversity and inclusion. We also note the changes to Flexible Working Act 2023 and the Carers' Leave Act 2023 which came into force 6 April 2024 and which will assist many with improved flexible working and caring responsibilities.[5] In developing our consultation proposals, we were nevertheless careful to focus on the outcomes that we expect firms to deliver rather than specifying how firms should look to make improvements, so that firms could choose the interventions that were most likely to improve outcomes for their own situation. The proposals within the CP made it clear that firms should examine their own data to see whether or not any barriers exist to securing benefits from enhanced diversity and inclusion and that, where such barriers are found, they should then identify and target interventions accordingly–potentially including flexible working initiatives. That said, we will support industry and Government where a regulatory view is needed.

Given that gender bonus gaps are typically even larger than gender pay gaps, we are concerned that the removal of the bankers' bonus cap could increase the difference between the overall take-home pay of men and women in financial services, especially given that pay gap reporting appears to provide little incentive against this. We recommend that the PRA and FCA monitor this closely, and formally review the impact of the bonus cap removal on gender pay inequality in two years' time.

The PRA has committed to monitor the effects of the removal of the bonus cap on the remuneration structures in PRA-authorised firms. This is with the intention of monitoring the prudential impact of incentives as well as individual and collective accountability in firms.

In addition, in Policy Statement 9/23, the PRA reminded firms that they continue to be required to establish, implement, and maintain remuneration policies, procedures, and practices that are consistent with, and promote, sound and effective risk management. While the removal of limits on the ratio between fixed and variable components of total remuneration gives greater flexibility to firms, we expect firms to take care to avoid adverse impacts on pay gaps when using this increased flexibility.

5 The Flexible Working Act allows for the right to request flexible working from the first day of employment. Employees can make two rather than one request a year for flexible working; and the deadline for employers to respond to the requests has been reduced from three to two months. The Carers' Leave Act entitles employees to take one week of unpaid leave a year if they have caring responsibilities (which include children); this is also available from the first day of employment.

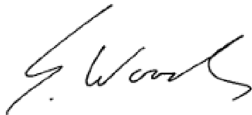
The Government Equalities Office and the Equality and Human Rights Commission are responsible for monitoring compliance with, publishing inquiries on, and enforcing relevant legislation concerning gender pay gap issues for firms, including those in the financial services sector. We would be happy to work with the FCA, GEO and EHRC to assess whether the policy change has affected gender pay gaps. While it will take time for the effects of the policy to be embedded within firms, as for example they may need to change employment contracts, we will seek to review the policy at the earliest opportunity that sufficient evidence is available.

We recommend that the FCA launches an awareness campaign to publicise the availability of its whistleblowing line and clarify the circumstances in which it can be used, including that nothing in a non-disclosure agreement can prevent an individual from reporting harassment to the FCA. This could be part of a wider campaign to map out the different options available to women suffering abuse or harassment in financial services.

I note that this recommendation from the Committee was directed to the FCA. Given that the PRA also provides an approachable, confidential whistleblowing line, providing in-person and online guidance on all whistleblowing matters, we will continue to work closely with the FCA across all aspects of our whistleblowing services.

I thank the Committee once again for the report and recommendations and let me reiterate in closing that we will carefully consider the recommendations as we determine any next steps in relation to our proposals.

Yours sincerely



Sam Woods

Deputy Governor and CEO, Prudential Regulation Authority

Appendix 3: Response from the Financial Conduct Authority

We welcome the Committee's report, Sexism in the City, published on 8 March, and its conclusion that there is an important role for regulators to play in promoting diversity and inclusion. We agree.

Greater diversity and more inclusion in the financial services sector would help to advance our operational objectives, improving outcomes for consumers and firms by reducing groupthink. Where firms are diverse and inclusive, we consider they may be able to draw on a greater breadth of knowledge and different perspectives throughout the design and provision of a product or service, as well as improve its decision-making processes. In addition, such firms are better placed to understand and respond to the needs of a broad range of customers. Sound decision-making processes support healthy work cultures, in turn enhancing and protecting the integrity of the UK financial system.

The attractiveness of the sector as one in which to build a career is also directly applicable to our new secondary competitiveness objective. The UK's financial services industry needs to be able to recruit and retain talent from the widest possible pool in order to maintain its position as a global leader. We welcome and agree with the report's emphasis of the importance of diversity to the sector's competitive edge. We share the Committee's concern that progress towards gender balance, while welcome, remains slow. Just 12% of named fund managers, for example, are women. Recent reporting has shown that at some large investment banks in the UK, there has been limited or even negative progress on the reported gender pay gap over the last five to seven years. The Government's Women in Finance Charter update also showed some encouraging progress in senior leadership representation in a number of firms with further work to do.

If regulated firms are not employing the best possible people and supporting their progress, there are potential implications for firms' governance, decision making and the appropriateness of their resources. It raises questions, too, about firm culture.

We are grateful for your positive recognition of the progress the FCA has made in female representation at senior levels where we have met one year early our target for gender parity in our Senior Leadership Team (approximately our top 150 leaders). We are also seeing a continuing and sustained decrease in our mean and median gender pay gaps and the pay gap in relation to minority ethnic women and expect to report further significant improvements over the year 2023/24 in our 2024 Annual Report which will be laid before Parliament later this year.

We have worked hard alongside the Prudential Regulation Authority (PRA) to engage with stakeholders about how best we could play a role in this area to achieve our objectives, including through the joint Discussion Paper in July 2021.[6] This received 184 responses from firms, industry organisations, consultancy firms, thinktanks, interest groups, academics, and other individuals.

6 https://www.bankofengland.co.uk/prudential-regulation/publication/2021/july/diversity-and-inclusion-in-the-financial-sector

Most respondents to the DP supported regulators taking action to help improve firms' diversity and inclusion. Evidence from the DP responses, the survey, research, and evidence from other Government initiatives were all carefully considered when formulating the CP policy proposals.

Alongside the PRA, we are still working through responses to the consultation and will carefully consider what our role should be in light of the Committee's views and those of respondents. We will take the time necessary to consider next steps and set out how we have taken the Committee's report into account when publishing the final policy.

I will respond in turn to each of the report's recommendations that concern the Financial Conduct Authority (FCA).

We recommend that the regulators drop their plans for extensive data reporting and target setting. In our view, a lack of diversity is a problem that the market itself should be able to solve without such extensive regulatory intervention. Boards and senior leadership of firms should take greater responsibility for improving diversity and inclusion given that it should lead to a competitive advantage in the development of talent. Firms that perform best on diversity and inclusion and have the best cultures should be able to benefit from the clear business advantages this provides, leaving those that perform badly in these areas to suffer the consequences for their reduced competitiveness and profitability.

We are grateful to the Committee for their recommendations in relation to our policy proposals around data collection and target setting. We received 257 responses covering a broad range of perspectives. We are currently working through these, and so the report is timely. We will consider carefully the Committee's recommendation as we formulate our policy response in conjunction with the Prudential Regulation Authority.

We remain committed to achieving healthy cultures, where everyone is included and able to progress, whilst being careful not to impose unnecessary costs on the industry. We would certainly agree with the Committee that we would not want any data collection to simply be a tickbox exercise without an appropriate focus on outcomes. The Women in Finance Charter annual review outlined what additional data signatories were collecting, which we will consider as we formulate our policy response.[7]

Taking into account the Committee's recommendations, we are now prioritising our work on non-financial misconduct, including sexual harassment and bullying, and it will take some time to fully consider the very wide range of responses we have received to our proposals on diversity and inclusion.

We will also consider what data may be needed to effectively deliver the other recommendations made to regulators by the Committee, for example to effectively engage with Boards and Senior Leadership, to support your recommendation on equality impact assessments and the recommended impact assessment on the removal of the bonus cap. Please see further details on our responses below.

We recommend that the Government and regulators encourage all firms to consider equalising their offer of parental leave for men and women, and to actively encourage

7 HM Treasury Women in Finance Charter: Annual Review 2023, p. 19.

more men to take it up. We also recommend that the Government and regulators encourage firms to be transparent about their maternity and parental leave policies, including when advertising roles, by publishing them on their company websites.

We recommend that the Government and regulators encourage firms to undertake equality impact assessments on their flexible working policies and the interaction with diversity and inclusion within their firm.

We recommend that the Government and regulators encourage firms to advertise as many roles as possible to be available on flexible and part-time bases, as a way to attract and retain as wide a talent pool as possible, especially women.

We identified inclusive parental leave policies as an action likely to be effective in advancing diversity in our 2022 multi-firm work on diversity and inclusion. We also found that some firms could do more to link their plans to an understanding of their needs and to monitor the effectiveness of actions they take. We will continue to encourage firms to do this.

We will support industry and Government where a regulatory view is needed on such initiatives. However, efforts to encourage the equalisation of parental leave for men and women, the availability of part-time/flexible working arrangements and firms to undertake equality impact assessments are all questions with much wider implications than solely for financial services. It may therefore be more appropriate that this recommendation is considered in the first instance by Government.

Given that gender bonus gaps are typically even larger than gender pay gaps, we are concerned that the removal of the bankers' bonus cap could increase the difference between the overall take-home pay of men and women in financial services, especially given that pay gap reporting appears to provide little incentive against this. We recommend that the PRA and FCA monitor this closely, and formally review the impact of the bonus cap removal on gender pay inequality in two years' time.

We agree it is important to monitor and formally review the impact of the bonus cap on gender pay and inequality.

We identified this as a risk in our Equality Impact Assessment when making the relevant rules. In the policy statement that accompanied our final rule changes, we explicitly reminded firms that their remuneration policies and practices must promote sound and effective risk management and be gender neutral. We expect firms to take care to avoid adverse impacts on pay gaps when using this increased flexibility to set more appropriate pay ratios.

We will work with the PRA to review the impact of the bonus cap on gender pay and inequality. We will also work with the Government Equalities Office and the Equality and Human Rights Commission as they are responsible for monitoring compliance with, publishing inquiries on, and enforcing relevant legislation concerning gender pay gap issues for firms, including those in the financial services sector. While it will take time for the effects of the policy to be embedded within firms, since they may need to change employment contracts for example, we will seek to review the policy at the earliest opportunity that sufficient evidence is available.

Given the potential overlap between the aims of the Worker Protection Act, which will be enforced by the Equality and Human Rights Commission (EHRC), and the proposals by the Financial Conduct Authority (FCA) on handling sexual misconduct in financial services, we recommend that the EHRC and the FCA clarify how they will work together to enforce the Worker Protection Act.

The EHRC is responsible for enforcement of the new duty on employers, but we recognise that there will be considerable areas of common interest and we have already been in contact to discuss this. We have a Memorandum of Understanding with the EHRC and we will continue to work together with them using this to share information.

We recommend that the FCA launches an awareness campaign to publicise the availability of its whistleblowing line and clarify the circumstances in which it can be used, including that nothing in a non-disclosure agreement can prevent an individual from reporting harassment to the FCA. This could be part of a wider campaign to map out the different options available to women suffering abuse or harassment in financial services.

We are currently considering how we can improve our approach to whistleblowing, and we will take the opportunity to consider how to communicate publicly any changes we make and whether a publicity campaign would be helpful as part of this.

This is something we have done in recent years. We launched a publicity campaign in March 2021, entitled "In confidence, with confidence", to encourage individuals to report wrongdoing. This involved sharing materials with firms to publicise FCA whistleblowing channels, as well as making these materials publicly available. We also engaged with the media to enhance awareness of the campaign.

We have extensive information about whistleblowing on our website and certain firms are obliged to publicise our whistleblowing service with their staff under our rules.

We receive around 1,100 disclosures a year. This number has been quite stable over recent years, although we have recently seen an increase in the number of disclosures relating to sexual misconduct.

As well as awareness of the whistleblowing line, the other issue is confidence in the function. We noted in our recent consultation paper on transparency in enforcement the limitations in sharing feedback with whistleblowers and the impact this can have in their confidence in the whistleblowing function. That consultation has now closed and we are considering all responses very carefully and have corresponded with the Committee separately on that consultation.

We recommend that the FCA collect data on the use of NDAs by regulated firms in cases of non-financial misconduct. This will provide a more detailed, quantitative picture of the extent of their use in financial services in harassment cases, which could provide valuable evidence to support further action.

As the Committee is aware, we recently issued a non-financial misconduct survey to wholesale firms in the insurance, insurance intermediary, banking and broking sectors. The survey covers the use of confidentiality agreements when settling complaints and requests a breakdown of data about what types of non-financial misconduct they have

been used in relation to. We are currently assessing the responses to that survey and welcome an opportunity to share those findings with the TSC in the future. We may in future decide to issue similar surveys to other sectors of the industry.

It is worth clarifying that confidentiality agreements cannot be used to prevent whistleblowing to the FCA only if the individual is making a protected disclosure, as defined in the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998. Several elements must be satisfied for a disclosure to be protected, including the fact that whistleblowers must reasonably believe that disclosing is in the public interest. This means that a whistleblower's concerns must affect others in order for them to be protected.

The Government also recently confirmed its intent to tighten the law around the use of NDAs in relation to potentially criminal misconduct.

We look forward to continuing to engage with the Committee and others on this important subject.