

KEVIN HOLLINRAKE MP



HOUSE OF COMMONS

LONDON SW1A 0AA

David Duffy
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22nd March 2019

Dear David,

We are pleased to hear that you are meeting with Ian Lightbody and John Guidi later today; I hope you are able to make positive progress. As you may be aware, the APPG has recently released a statement (attached), in which we call for banks to proactively engage with complainants prior to the implementation of the DRS, with a view to coming to reasonable settlement arrangements if possible. We also call for a moratorium on legal action against shareholders, directors and companies that have a complaint they will wish to register with the DRS.

We understand that Mr Lightbody will be bringing you further cases to consider, many of which have reached a critical point; we look forward to hearing that positive progress is made.

The Minister and the Chancellor have both made it clear that they expect all reasonable complaints to be handled by the DRS and that complainants who have had their debt sold to third parties are able to take their complaint to the original lender. The APPG has serious and ongoing concerns with regard to CYBG's sale of its CRE book to Cerberus and we hope that you will take these concerns seriously.

I am happy to meet up to discuss further.

Yours sincerely,

A handwritten signature in black ink that reads "Kevin Hollinrake".

Kevin Hollinrake MP
Co-Chair of the All-Party Parliamentary Group on Fair Business Banking

Cc Jamie Maxton, Government Relations Manager, CYBG
Ian Lightbody, Group Parliamentary Liaison, NAB Customer Support Group
John Guidi



Statement from the All-Party Parliamentary Group on Fair Business Banking

20th March 2019

Banks told to look after customers even after they sell on debt

Responding to an Urgent Question in Parliament yesterday, Treasury Minister John Glen MP told the banks they need to make sure that customers are treated fairly and resolve disputes even when they have sold on their debt to 'vulture funds'.

The question had been raised by Lanark MP, Angela Crawley, who had tabled the question in relation to her constituent, Mr John Guidi, who is on hunger strike following his mistreatment by Clydesdale Bank.

Mr Glen stated the Clydesdale were required to ensure that "third parties that buy loans have demonstrated that customers will be treated fairly, and to allowing customers to complain to the original lender if there is a dispute between the business and the third party that cannot be resolved."

Firms such as Cerberus are not covered by the Standards of Lending Practice, as these principles are not legally binding and are ultimately unenforceable. The sale of debt to vulture funds is an area of intense concern for the APPG and one which we will continue to pursue. It is clear that we do not have appropriate measures in place to deal with the sale of debt to third parties, leaving many unable to access justice and exposed to the predatory behaviour of vulture funds.

A number of other key points were raised in the session including our calls for a moratorium period, the eligibility for the historic compensation scheme and the need for a Financial Services Tribunal.

Call for Moratorium

The APPG's co-Chair, Kevin Hollinrake MP, wrote to Andrew Bailey on 12th March to request that the FCA sends direction to financial institutions to desist from destroying documentation and commencing legal action against businesses and/or guarantors in preparation for UK Finance's historic compensation scheme. We are concerned that the banks may undertake actions before the historic scheme is established that may exacerbate losses and compound distress.

Whilst the compensation scheme refers to historic cases, the effects of this are playing out real-time for people. If there is a recognition that the misconduct of the past requires a compensation scheme, then the finance industry must take action to ensure that these individuals do not endure further damage whilst awaiting the establishment of the scheme. We therefore call for a moratorium period across all banks to prevent actions against businesses, guarantors and directors that may conflict with the historic compensation scheme.

In addition, we call on industry to be proactive and work to resolve, on a voluntary basis, cases that are brought to them in the months leading up to the establishment of the scheme. This is an excellent opportunity to get a head start on the complaints and perhaps resolve issues without the need to go through a formal process.

In response to a question on this subject from Joanna Cherry MP, the Minister signalled his agreement that financial institutions should abstain from destroying documentation before the historic

compensation scheme is established in September 2019. He said: "it would be perverse to shred relevant materials in the context of a provision that they have entered into freely, showing a lot of good will, to try to find resolution and get a better point of trust between the public and themselves."

Eligibility for the Historic Scheme

The APPG has repeatedly expressed concerns that the historic compensation scheme should not exclude claims from individuals who have already gone through ad hoc review processes designed and operated by a financial institution. Each case must be looked at on a case-by-case basis and there must be full scrutiny of all those cases that have not been resolved adequately, including those that have been through ad hoc review processes and those cases that occurred prior to 2008.

The Minister today confirmed that "as the Minister responsible, I was keen to ensure that we had a meaningful historical redress mechanism that would give discretion for the banks to examine these individual cases". It must now be the case that, where there is sufficient merit, the historic compensation scheme accepts cases that have already gone through an ad hoc review process.

Persisting Need for a Tribunal Supported Across the House

With regards to the future dispute resolution mechanism, we must, however, reiterate a point we have made many times in the past. It is misleading to suggest that 99% of all SMEs will be covered under the UK Finance's Dispute Resolution Service (DRS) as this figure is skewed by a large number of very small businesses. In the FCA's consultation on SME access to the Financial Ombudsman Service they state that even with an expanded remit to award claims up to £600,000, 41% of complainants will still be excluded as they have claims above this level.

There will therefore still be a gap in accessing justice for larger business, with larger claims, that must be covered by a new Financial Services Tribunal. The APPG receives daily representations from Members of Parliament with constituent cases and these must be given access to an effective and efficient dispute resolution mechanism in the form of a tribunal that commands the confidence of SMEs in this country.

The regulatory landscape has not changed sufficiently to eradicate the practices and behaviours that characterised the last conduct crisis and we cannot be complacent by waiting to see what the next downturn holds. Businesses need protection to give them the confidence they require to borrow and expand their enterprises.