

It's time small firms got justice from the banks

Jonathan Reynolds

Jonathan Reynolds is shadow city minister

Over the past ten years, much of the conversation regarding banks has been framed around how to make them safer after the global financial crisis. That is understandable.

Yet for banking fully to win back the confidence and trust of the nation, we also have to address the serious issues of conduct relating to how some businesses were treated both before and after the crisis.

In some cases it was nothing short of scandalous, most notably those involving HBOS and the Royal Bank of Scotland Global Restructuring Group, but they were not the only perpetrators. As an MP, I am regularly presented with cases where people have lost their homes, marriages, livelihoods and health, even becoming suicidal, on the back of financial pressure and sharp tactics from banks and their representatives.

When we bank with an institution, we hand over our money, our welfare and, for businesses, a livelihood into the trust of someone else.

For tens of thousands of businesses, that trust has been violated and we need to take urgent action to correct it. Justice must be delivered to those that have been wronged, not only because it is the right thing to do, but also because a good relationship between businesses and banks is fundamental to the health of our economy.

Seeking access to justice can be prohibitively expensive. For example, one family, the Holgates, had a profitable caravan business until their bank reportedly mis-sold them an interest rate swap. This business turned over roughly £1 million, yet it cost them in the region of £7 million to sue their bank.

It is, therefore, deeply disappointing that despite many hours of parliamentary debate and consensus on what must happen next among the Treasury select committee, the opposition, the DUP, the Financial Conduct Authority, banks such as TSB and Metro and the all-party parliamentary group on fair business banking that the government is still reluctant to take real action.

This month the government rejected calls from these groups for a specialist tribunal through which small businesses could bring disputes against their banks without incurring the costs of a lengthy court battle. We do not believe that the alternative that ministers have cited, the looming expansion of the Financial Ombudsman Scheme, would have sufficient resource and expertise to get to the root of this problem, while the mooted compensation cap of £350,000 is far too low.

An independent tribunal would be a critical step towards creating a level playing field between businesses and their banks. As Ned Beale, a litigation partner at Trowers & Hamlin, the City law firm, and a fellow of the Chartered Institute of Arbitrators, suggests: “In the short term, arbitration would fill the access to justice gap between the FOS and the court. But what’s equally interesting is the long-term prospect of a specialist tribunal developing law, custom and practice that changes the culture of financial services for the better, in the same way that employment tribunals changed workplace culture.”

Labour believes that we need to both ensure redress for historic victims and build a watertight system to prevent businesses from ever being subjected to exploitation like this again. We have consistently called for an independent, judge-led inquiry fully to understand what caused these scandals. There is still too much opacity and while six people were jailed last year for their role in the HBOS scandal, which ruined scores of businesses, we have seen nothing by way of senior accountability.

Twinned with this review, an independent compensation scheme needs to be established, covering the previous 20 years to fully capture all the cases for which there is evidence. The trend in recent years for allowing banks to run compensation schemes themselves is still stacking the odds in their favour. This is simply not effective, as we are hearing directly from complainants themselves. It is critical that any scheme must have independent governance from a body that has a public interest mandate.

This brings us back to the key point — we need a change in culture and in conduct. The time for deliberation is over. Small business owners cannot afford further delays.

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