



NEWSLETTER

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Newsletter on the 7th SME Alliance meeting, 7th March 2016 at 23 Essex Street Chambers sponsored by Shensmiths Barristers.

Dear members,

We had a really great meeting last Monday – perhaps our best yet. I believe we are really getting to grips with how to maximise the benefits of these meetings. At this particular one our success was greatly enhanced by the contribution from Shensmiths Barristers who sponsored the event and 23 Essex Street Chambers who provided the venue and amazing hospitality. We are very grateful to both chambers and especially to Jonathan Maskew who made this possible. We're also very grateful to our speakers, Stephen Harvey QC of Shensmiths Barristers and Brian Basham. Both gave very interesting and informative speeches. But I think what also really made the meeting successful was the number of members who attended, some of whom travelled a great distance, and who, in my opinion, are making SME Alliance one of the most influential support groups in the Country for SMEs abused by banks. Many thanks to all came.

Unfortunately neither of the Turner girls could attend this time so I don't have Sophie's minutes or Laura's photos. However, thanks to Sheila (Mrs Keats), chaos didn't reign, I did have some help and we do have some photo's (they'll be on the blog)! Approximately 80 people attended the meeting - ten of whom were guest speakers, barristers and others who don't have cases against the banks. Sheila was also able to keep a record of which banks the 70 members attending had issues with. Interestingly over 50% of members there had cases against RBS/ NatWest or Lloyds/HBOS. 20 members had cases against RBS/Nat West and 19 were Lloyds/HBOS.

I know more members would have liked to attend but circumstances didn't allow. So I will try, without Sophie's minutes to give a good commentary of the meeting. Please note – I am doing this newsletter in two halves – partly because I don't want to send out a book! Mostly because there is so much to put in it and I want to get something out asap. Family illness has already slightly delayed this so here is Part 1 and Part 2 will be in another newsletter next week.



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Part 1.

Our Chairman Nick Gould started the meeting with an excellent speech which you can read here:

Welcome to the seventh meeting of smealliance. Thanks to you all for coming.

I am Nick Gould co -founder of SMEA . With me are Nikki Turner and Andy Keats. Nikki is the other remaining co founder and we are the three directors of SMEA.

I had useful feedback from the last meeting which we held in Bristol in November. As a result , this time I am going to run the meeting on a more formal basis. Nikki sent out an agenda and unless I decide otherwise that is what we are sticking to...Chairman's prerogative!

If anyone wants to have informal discussions or raise other points that is fine -- provided we get through all the formal business first. Otherwise we can do it later on as our hosts have kindly agreed to let us have this space until 6.30

We have a lot to get though so I would like to make a start-- we are aiming to finish the formal business by 5.30 .

My thanks first to Jonathan Maskew for arranging space here at 23 Essex Street Chambers and thanks also to the members of chambers here for giving us the space.

There are currently numerous initiatives we are involved with and Nikki and Andy will give you summaries of these during the meeting. Again in order to get through the agenda although questions are welcome please keep them short and to the point. I don't really want speeches today, as mentioned --plenty of time to discuss later on.. And for those new to these meetings, it's not that I don't get members anger and frustration. I get it big time. But these meetings need to look to the future -- after all this is the seventh one. We need to be focused and make sure we end to-day with members understanding what our clear aims are over the next few

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I should mention we seem to be hitting quite a few nerves as you will hear later. Allied to that is a key point. We are from time to time asked to join on a formal or work with on an informal basis other similar organisations. But that is the point-similar is not the same as the same. When Jon Welsby , Nikki and I set up SMEA we were , I think, of one mind on how we wanted it to be. It has a very flat structure. It has just three directors and the way we operate , majority rules, although in reality we are just about always unanimous in our decisions. I am not interested in this being a one person operation--whoever that might be and it certainly won't be me . I don't want us to be and be run like other organisations. After more than 30 years of business and working with just about every kind of legal structure, I think I know what works and what doesn't. So while we might work with other groups (and I know quite a few of you are members of those) we the SMEA will go on developing , growing and trying to help as many of you as we can --just as we have been doing up till now.

It can't be said too often the SMEA also works as a support group. I think in some ways this is our biggest strength. I suspect whatever problem a member has had or is having, someone else has gone through something similar before. So do please ask either through social media, by phone or by email if you think someone here can help. We have some amazing advisors many of whom will be speaking during this session-thanks to all of you for being involved with and helping SMEA and its members and giving up huge amounts of time to do so.

As I keep saying, although we make a lot of noise on social media, and elsewhere I am keen to expand our membership. New and little but small and noisy , only works as a catch phrase for so long—we are no longer new.. We were all of these but , as some will remember , we want to be a lobby group for a wider range of SMEs. To do this effectively I believe we need to grow.

I know right now we are a sole purpose organisation. Hopefully we won't need to be like that for ever. But even within that sole purpose a significant membership would help. So in this case I believe it's quality and quantity. I would once again ask all of you to tell your friends , contacts and everyone else about the SMEA and why it is worth joining us. Social media gives us a huge opportunity to tell SMEs and their owners about the SMEA and why we are different. Please do use that as another way of telling our story.



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I have written to some of you about the Competition and Markets Authority review into the provision of legal services. For anyone who thinks all the legal services they have received have been fine and value for money, you can close your eyes for 10 seconds. For anyone left listening, do have a look at the CMA website and if there are relevant matters you want to raise I urge you to do so. There may be an opportunity to put some points forward, please don't waste it—but check their website first.

Finally, I would like personally and on behalf of all of you to thank Andy Keats and also and particularly Nikki and the entire Turner family for the enormous amount of time and effort they spend on behalf of SMEA. Without their efforts the SMEA simply could not exist.

Thanks for listening and now Nikki and Andy, over to you.

Nick

After Nick's speech Andy and I gave a round up of what's been happening and what we're working on. The things I spoke about were:

The FCA – where are we. I explained we have had a letter back from Nausicca Delfar who is a legal representative of the FCA. She has confirmed the FCA have considered all the evidence we gave them at our 3rd November meeting and have concluded the banks concerned have done nothing wrong! Absolutely bonkers! This is an ongoing situation as we certainly won't accept this lying down and we'll keep you updated. Andy gave more detail when he spoke (see below) and I moved on to talking about whistle blowers.

We are talking to more and more whistle blowers via Mark Wright who is himself a whistle blower. Nick Wilson, the HSBC whistle blower who I know from Whistle blowers UK is also one of our members and was also at the meeting – so it seems logical we should encourage whistle blowers to contact us and we should make sure they know some of the pit falls and where to get advice. For example and given the cavalier manner in which the FCA gave the banks some of our confidential evidence, they need to know that giving

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information to the FCA is a one way stream – they won't know what is done with their information once they hand it over. This means their good intentions to expose wrong doing in banks will invariably end up being of no benefit to anyone as no one will know about it. Whistle blowers certainly make our lives easier at SME Alliance as they give us valuable information. Therefore we are adding a section to our website for whistle blowers to contact Mark, Andy or me.

I then talked about the fund we plan to raise – I have spoken about this at other meetings but it has taken a while to research the best options for building a fund and also the best uses we can put it to. We are almost ready to launch a crowd funding initiative and Andy has been talking to the head of the Crowd Funding Association to get advice on the best sites and the best way to do it. We've finished the presentation and the only thing we are missing is the video – which we need help with in terms of camera's and editing. Fortunately and yet again, Jonathan Maskew has stepped in with an offer to help. So, many thanks again to Shensmiths.

Final point on the crowd funding – the whole basis of crowd funding is 'how many people do you know?' For those members who don't already know, our twitter re-tweet reach is regularly between 500k and 1M per week and we peaked a few weeks ago at 1.24M. In theory, we should be very successful at crowd funding because we can reach a phenomenal number of people!

We will also be having a fund raising event – and this will be arranged with the help of our friend Brian Basham. I'll do a separate newsletter specifically on the fund raising in the next few weeks and we hope to have the crowd funding up and running by the end of April – or sooner if possible.

The other topic I spoke about is the idea of a rolling blog. A couple of weeks ago Andy and I attended a workshop/summit organised by the Innovation Finance Lab hosted by Chris Hewitt. Attendees included people from various organisations like NEF, TUC, Shelter, Move Your Money and lots of academics. Yet again, I was shocked to realise how many people have absolutely no idea what banks have been doing to the SME sector and we need to find more ways to spread the word. I also realise, talking to new members who have only just heard about SME Alliance, there are hundreds, if not thousands of SMEs who would benefit from being part of this support group – but they also don't know we're here!



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We don't advertise and, although we do get mentions in the press, they are invariably just quotes on a specific topic, they're not about what we do.

I'm looking for ideas on how to reach a bigger audience and one idea is that we start a rolling blog where every member can add one or two paragraphs about their case. Not in great detail but naming the bank, the issue and the consequences. This could become quite a powerful document and even a historical record of what banks have done and are doing at this point in time.

This will be separate to our regular blog and I will ask Laura to set it up in the next few days. We will send an e-mail to all when it is ready and then members can send us their couple of paragraphs and we can tweet the blog every time we add a new case.

Just one point – we don't want to be sued!! So even although we will add a disclaimer, we won't have time to edit over 100 submissions and would ask everyone not to add inappropriate language or any allegation they can't substantiate.

If any members have other ideas on how to spread the word, please do let me know.

Andy Keats spoke next and he has very kindly given a round up of his comments here:

FCA / ICO and RBS:

Shared with SMEA members that the initial allegations were that RBS customers had had their customer records falsified in a number of ways to enable RBS to provide false information to the bank's solicitors, the courts, the FOS and the FCA IRHP SWAP review team with a clear purpose of misleading those persons / bodies into making decisions in favour of RBS (financial gain) and causing (financial) loss and distress to the customer.

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A FCA meeting in September 2015 with Head of Banking Supervision Karina McTeague resulted in Andy and Nikki being told to take the matter to the Police and the ICO and that it was nothing to do with the FCA which cannot investigate crime apparently, so wash their hands entirely of such allegations.

The FCA then changed their mind after a call from James Hurley at 'The Times' and a meeting was arranged for the 3/11/15 with the FCA heads of Banking Supervision and SWAP Review Team and their criminal lawyer. SMEA attended with Steve Middleton of Modus Mediation, Barrister Simon Stafford-Michael and MP Guto Bebb. A 3 hour presentation outlined 10 ways by which RBS falsify customer records for the benefit of the bank. The FCA promised to investigate and for permission to liaise with Police. So far so good... The investigation took place apparently, with all the names of the case studies being supplied to the bank(s) without our permission. Not a good start FCA clearly breaching DPA Laws! The FCA sent out its letter of finding on 29/01/16 stating: 'Based on the work we have carried out, we found no evidence that the banks have deliberately falsified or altered customer records.' I followed this up with FCA Claire Bollingford (she was at the meeting) and she admitted on the telephone that bank's had altered the documents but not falsified them! Says it all really! The Police Eastern Region Special Operations Unit are now investigating and gobsmacked at what they have seen!

In the meanwhile – we reported matters to the ICO who wrote on 9/11/15 'RBS has confirmed that some of the inaccuracies within the transcript would not have a material bearing on the transcript itself.' That of course means that most inaccuracies do have a material bearing on the transcript itself! In a face to face meeting the ICO then agreed that RBS probably wrote what was in the ICO letter! You can't make it up! Watch this space!

Private Criminal Prosecutions:

Shared that with the assistance of Shensmith Barristers and Stephen Harvey QC, we have taken our first PCP with 8 counts of False Accounting under s17 Theft Act 1968 against two persons. The important point is that the False Accounting is not actually a part of the claim against the bank, but the persons involved are key players in the middle of the bank, the IBR and the IP. The summonses are expected within 10 days and when they are served all hell is expected to let loose as the two accused at first deny everything and then when they calm down, blame each other and then hopefully start to sing like canaries about what was really going on between the bank and the complainant – it's called leverage! Watch this space!



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After Andy had spoken, we had our first guest speaker, Stephen Harvey QC who spoke about the advantages of using 'Direct Access Barristers' and also about 'Private Criminal Prosecutions.' Fortunately, Jonathan Maskew filmed Stephen's speech and you can watch the first part of his speech here:

<https://www.youtube.com/watch?v=z8krfDMQh8I&feature=youtu.be>

That took us up to the coffee break and I will send another newsletter with Part 2 including the second part of Stephen Harvey QC's speech at the beginning of next week.

One last comment and a very sad one. While we were having our meeting on Monday, one of our members, Mike Wilson, suffered a terrible tragedy. Because of the extreme pressure he and his family have been under due to the kind of inexplicable and inexcusable conduct of a bank, Mike's wife suffered a heart attack and died. She was 45 years old and the mother of six children.

We have sent condolences to Mike from everyone at SME Alliance via Nigel Henderson. There is little else we can do – except fight harder to stop the lunacy that allows such tragedies to occur.

Best wishes to all

Nikki