

And finally a Newsletter!

I do apologise for the delay but it has been a very hectic time right back from late summer when Andy Keats and I met with Neil Collins and Will Lucker at RBS. In the last newsletter I mentioned we were waiting for a reply from them regarding my question about DSARs – I.e, in their view, what do they believe the bank should sent anyone submitting a DSAR?

We did get an answer from Will Lucker who is Head Litigation Counsel and it is sadly as clear as mud. Below is an extract from the letter to SBCB – and I have copied the part relating to SME Alliance :

During our meeting Ms Turner also raised a question about the Bank's policy for responding to subject access requests (SARs).

I have responded to your questions below.

A. SARS

Ms Turner requested clarity as to the Bank's position and official policy on subject access requests (SARs), to understand why customers receive apparently different SAR responses from different departments within the Bank.

The Bank recognises the importance of the right of subject access. The Bank works closely with the Information Commissioner's Office (ICO) to maintain high levels of compliance and resolve any SAR-related complaints. Our policy on SARs is fully to comply with the subject access obligations under Section 7 of the Data Protection Act 1998, as well as ICO advice and guidance, and to do this in as consistent a manner as possible across the Bank.

Not all SAR responses will, however, look alike. The right of subject access is a right to access *personal* information (and not all customer information), and is a right to data not documents. As such, some customer files will contain more personal information than others, for example, a personal banking customer file compared to a corporate customer file. As well as the type of customer involved, the type of documents provided in a SAR response will also be impacted by the type of product held and length of time the requestor has been a customer. Accordingly, there is no single template that all Bank SAR responses follow.

The issue of DSARs had already become a serious problem but it was shortly after that meeting Andy identified the serious manipulations and falsification of documents by RBS. So, having had what we felt was a very positive meeting with the FCA Insight Team in September, we then requested a meeting with senior members of the FCA to present evidence of our serious allegations regarding RBS. This meeting and was with Karina McTeague (Head of retail supervision) and Clare Bolingford although given the seriousness of the evidence I had requested a meeting with Tracy McDermott or someone from the enforcement team.

Unfortunately there is no diplomatic way to report back on that meeting. Ms McTeague simply refused to look at any of the evidence Andy had (he had a suitcase full). She said what we were alleging was criminal and we should report it to the police as the FCA were “not allowed by the Government to do anything about it.”

We were very shocked. I know the police meet with the FCA on a regular basis to look at potentially criminal cases under Section 166 review and in fact, according to both the police and the FSA, the HBOS Reading case was reported to Thames Valley Police by the regulator. The meeting only lasted half an hour and was very disappointing.

However, after the excellent articles by James Hurley, the FCA decided they did want to see the evidence. On 3rd November Andy Keats, Steve Middleton, Mark Wright and I attended a meeting at the FCA with Clare Bolingford, David DeSouza and a lawyer from the enforcement team. Also present was Gutto Bebb MP and Simon Stafford-Michaels from 1 Pump Court. This meeting was much more satisfactory. It lasted three hours and both Andy and Steve were able to present substantial evidence supporting our allegations that RBS and other banks are deliberately falsifying or manipulating information and documentation held in client files.

Two important things came out of the meeting. Firstly, Clare Bolingford asked us to confirm we are happy for the FCA to present this evidence to the police. That is hugely important because, as we all know, when we approach the police as individual victims of bank abuse, we are invariably told it is a civil matter. A report from the FCA, I would suggest, is given a much better reception and is likely to result in further action. Secondly, Simon Stafford-Michaels is now preparing a letter/report for the FCA giving his opinion of the evidence presented. Brilliantly Mr Stafford-Michaels is doing this pro bono instructed by SME Alliance and is happy to work with us to get a resolution – i.e. we require a proper investigation by the regulator (and the police) followed by the appropriate enforcement action. We are very grateful to Simon Stafford-Michaels for his help and support.

So that is where we are with the FCA and we will keep members up dated on what happens next. We still haven't heard back from the Insight team of had any requests for further meetings with them – a bit disappointing but that may just be because they knew we were dealing with Clare and her team.

Although the evidence presented to the FCA came predominantly from DSARs, the issue of potentially criminal manipulations is not a data protection issue (as Steve pointed out to the FCA). Therefore, my question to RBS and their reply above remain separate and unresolved. So now we are trying to get some clarity from the ICO and we have written asking for a meeting where we can make a similar presentation to the one given to the FCA but on the specific subject of what should be supplied when making a subject access request. That letter went out on Wednesday and hopefully we will have a meeting soon.

Another very good meeting we had recently was with Dominic Lindley of the New City Agenda. <http://newcityagenda.co.uk/> This is a Government think tank who look at various issues to do with banks and the financial sector. At the moment they are looking at the role of the regulators – obviously we had a lot to say on the subject. Abhishek Sachdev, who has worked with the regulator on the IRHP review, also attended the meeting. It was very good to be able to share the many issues and concerns so many of our members have had, at this level. I hope to get some feedback from Dominic soon and will pass it on.

Other things – as you all know, Jon Welsby recently stepped down as a director of SME Alliance. Time and work commitments just made it impossible for Jon to dedicate the time SME Alliance pretty much demands now that we're growing. Of course Jon is still an active member and, fortunately for us, Andy Keats has taken his place as a director and is doing some great stuff.

Some of you may have noticed a lot of tweets between SME Alliance and Shensmiths barristers. This is proving to be a very good opportunity for us to contact direct access barristers and Jonathan Maskew has already been very helpful and given us contact with a QC for advice. Jonathan was at our last meeting and hopefully will attend the next one and by then we can give more information about Shensmiths. Certainly we are beginning to make some very good contacts in the legal world and many of them seem as concerned as we are about a lack of access to justice.

Going forward

Our next meeting is 1st December at the fabulous Windford Manor hotel. The purpose of the meeting is fourfold. Firstly - we will have a date by then in the New Year for our SBF (small business fund). This is a huge initiative and we need all the help and support we can get. So we want to explain to members exactly what it is and what it will do. We also want to get some feedback from members and ideas.

Second – I got the distinct impression at our last meeting (at the Metro bank) that our Q&A session could have continued on for a lot longer had we had the time. Given all that's going on and given I would have to write a book to cover it all, I think it would be a good idea if our adviser team does another Q&A session and also updates members on things they are doing that could be helpful to other members.

Thirdly – the membership is growing and as some of you may be aware, Nigel Henderson held an SME Alliance meeting in Scotland this week. I know Mark Wright is planning one for Norfolk and I think Clive is planning to do something similar in Wales. I think these regional meetings are an excellent idea. They mean people don't have to travel far and get together in smaller groups which makes it easier to share information and news. BUT – I don't know where most of our members are based so it's hard to put groups together. I know everyone could just send me an e-mail but, to be honest, I would rather Sophie just collected information from those people attending the meeting about where they are based and which banks they have an issue. Then we can just e-mail non attendees.



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Fourthly – as it's so close to Christmas, our wonderful host James Fahey has agreed to lay on the SME Alliance Christmas bash. Try as I might I can't get him to accept any more than £5.00 per head! For those people who want to stay, James is also offering 'mates rates' of £50.00 a room with continental breakfast. And for those who would love to stay but simply can't afford to, please give James a call (07976 828341) and I know he is keen to help out.

I haven't done the agenda yet – I will do it by Wednesday along with all travel details. But basically members can arrive as early as they like on the Tuesday and even if people arrive before the meeting starts, this will give them an opportunity to start networking over a coffee straight away. The actual meeting part of the day will be between 2.00pm and 5.30pm and we'll start our Christmas bash around 6.00pm. Please do try and come it should be a really enjoyable occasion.

One last thing – I will bring the example of how we plan to produce the SME Alliance book with me to the meeting. We've used Nigel Henderson's case (many thanks to Nigel and Norma) as the first case study and I hope many people will want to add their stories.

That's it for now. I will put out the agenda for the meeting with an RSVP on Wednesday.

Best wishes

Nikki