

As the ancient Chinese curse goes, we are living in interesting times. There is so much going on in politics on a daily basis, coupled with the Covid-19 pandemic, we are living within a pretty toxic business cocktail. We are living in a time when it seems to be de rigeur to make statements that are quickly provable to be inaccurate, if not untrue or to be wildly over-optimistic by people that seem to be totally un self-aware with the belief that none of us have memories reliable enough to remember what was said last time.

I am more fortunate than most people. I have worked from home for 9 years and the only change for me has been that I have not set foot in Central London since the middle of March rather than going in 2 or 3 times per week. Previously, “working from home” was a metaphor for a day at home not doing much work. Now, people have discovered that they really can do a lot of effective work without needing to join the rat-race into cities. The Zoom, Teams, Skype or GoTo meetings are commonplace and often the preferred form of communication, even over telephone calls.

Many firms are looking at how much office space that they will need in future. One of my contacts worked in a firm at London Wall. An office capacity of 16 desks. Their MD had been commuting from south-west London suburbia since 1972. After a short time of lockdown, he said that he would not continue to commute anymore as he could get nearly all of his work done from home. The firm’s lease had run out during lockdown. So he would now be looking for office space for 6 or even 4 desks for people to attend at necessity from time to time. This is not good news for the landlords of large office buildings or the entertainment and retail in the large cities as this mentality becomes normal going forward.

Many firms have received questionnaires from the FCA regarding their capital positions and how their businesses have been affected by Covid-19. Even the FCA answer message refers to this advising firms of a contact number to call even they are in financial difficulty. It is interesting that the FCA wants to know this information to protect markets from insolvent firms but seems to be doing very little to actually help any firms in their time of business hardship.

In the meantime, the FCA seems to be unwilling to address the insurance companies that are providing Professional Indemnity Insurance. The PI providers are pretty much killing off the DB transfer market by increasing premiums on this business to a level that makes continuing to practice in this area uneconomical for many practitioners. The tail really is wagging the dog in this respect. It would be better for the FCA to ensure that the practitioners are sufficiently supervised to ensure good outcomes for clients rather than letting the PI companies weed out the market. I can think of several excellent practitioners who have stopped offering this advice service. This surely cannot be a good outcome for clients when good practitioners are no longer operating.

I have recently met 4 independent mortgage advisers who seem to have fallen foul of Lloyds Banking Group, mainly Halifax. The Halifax has removed them from its panel of introducers without any warning. I can understand that it is avoiding tipping-off in respect of AML regulation. However, Halifax does not actually give advisers any reason for being removed from their panel. If it gives no reason, that gives no opportunity for an adviser to give any explanation to clear their name. Apparently, the appeals process is equally difficult and largely does not allow for any explanation. So, Halifax is basically acting as judge and jury with no discussion or appeal allowed. I referred this matter to the FCA and was advised that this is simply a business issue. A provider can choose to do business with whomever it wants and can stop doing business as it sees fit. This practice can be quite damaging to advisers as other lenders may also choose to stop doing business based on the Halifax decision. Woe betide any advisers that fall foul of Halifax.

The FCA has continued to focus on how advisers work with Vulnerable clients and have issued and re-issued guidance for advisers. There is quite a long list of criteria for considering people as vulnerable clients. There is a growing amount of training for advisers to enable better practice. I actually believe that nearly all clients could be considered to be vulnerable. They consult an adviser because they need help to organise solutions to enable them plan to meet objectives. That gap in knowledge could be considered as a sign of vulnerability. The question that the FCA is asking is to try to ensure that the advisers inform the clients sufficiently that they are

no longer vulnerable. This can hopefully be evidenced with a detailed fact find and at the other end of the process, an understandable suitability letter to confirm that the advice will enable the clients to maximise the potential of achieving their objectives.

However, advisers are obviously not achieving this as there are still so many complaints that end up with the Financial Ombudsman Service. This is where good record-keeping is vital to provide a defence of the advice that has been given. Unfortunately, advisers are struggling to suit two masters. The FCA that wants suitability letters that are short enough that the clients will read and understand what has been arranged. The FOS wants to see all the bases covered, which results in incredibly long and detailed suitability letters that do not help clients to understand what has been arranged. Often these long letters purport to cover what has been discussed with the clients but are often not discussed at all. The old saying "if it is not written down, it did not happen" does not hold that it actually happened if it is written down. Client vulnerability may not be helped by this need to serve two masters.

On reading back this note, it seems that I have just spent my time knocking the FCA. Of course, it is not immune to the current business climate and many of its staff are working remotely. It is dealing with Covid-19, whilst juggling with the potential effects of Brexit whilst implementing MiFID and PROD issue. After those issues, the ongoing supervision of advisers must be like herding cats. Perhaps it needs a bit more help from some compliance practitioners.

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