

PROTOCOL

For the conduct of the investigation into events at the Co-operative Bank PLC pursuant to the Direction from HM Treasury to the Prudential Regulation Authority on 12 June 2018 and amended on 25 July 2018

A. Introduction

1. Mark Zelmer (hereafter "you") has been appointed by the PRA, Bank of England to carry out an independent investigation into events at the Co-operative Bank PLC between 2008 and 2013.
2. The scope of the investigation is set out in the Direction issued to the PRA on 6th March 2018 by Her Majesty's Treasury ("HMT") pursuant to section 77 of the Financial Services Act 2012 ("the Direction"). The Direction therefore stands as the Terms of Reference for the investigation. It also reflects the statutory requirement that at the conclusion of the investigation the PRA must make a written report to HMT.
3. This Protocol sets out the procedures under which the investigation is to be carried out, reflecting the requirement for this investigation to be, and to be seen to be, independent.

B. Administrative Matters

4. You will be given specific individual contacts at the PRA, including the Senior Responsible Officer ('SRO') to whom the Prudential Regulation Committee has delegated responsibility for oversight of this investigation.
5. The SRO will be supported in his role by a Project Review Board which will provide advice to the SRO when he requests it but which will not have any delegated decision-making powers. Any interactions you have (or may have) with the Project Review Board will be at the discretion of, and through, the SRO.
6. To facilitate you in conducting the investigation, particularly in relation to requesting and obtaining relevant documents and information, a dedicated email inbox for communications relating to the investigation has been set up. You should send communications relating to the investigation to this inbox as this will ensure that they are logged and actioned efficiently.
7. The PRA will arrange for you to have access to office facilities within the Bank of England at Threadneedle Street.

C. Documents, other information and meeting

Documents: requests and production

8. You will send all requests for the production of relevant documents (to include, for the purposes of this Protocol, documents, information and communications in hard copy and in electronic form) to the email address referred to in paragraph 6 above. Such requests will set out the documents or class of documents requested for production.
9. Provided that the documents requested for production are within the PRA's power, custody or possession, they will be provided to you (either in hard copy or in electronic form) via a secure IT route as soon as possible. No such documents will be withheld from you.
10. Where documents are not within the PRA's power, custody or possession (for example, because they are held by the FCA or HMT) you should follow the procedure above and the PRA will contact the organisation holding the documents and request the documents on your behalf.

General information requests and general explanations

11. In the event that you require other information and/or explanations relating to the PRA's or FSA's activities, and falling within the scope of the Direction, you will send a request to the email address referred to in paragraph 6 above.
12. The PRA will respond as soon as possible to any such request.
13. In the event that you require other information and/or explanations relating to the activities of another organisation (for example, the FCA or HMT), falling within the scope of the Direction, you should follow the procedure above and the PRA will contact the relevant organisation to request its assistance and to obtain the relevant information and/or explanations for you.

Meetings with individuals

14. In the event that you wish to meet with any individual currently or formerly employed by the PRA, you will notify the PRA of the individuals whom you wish to meet (using the email address referred to in paragraph 6 above, attaching a letter from you to the individual for the PRA to pass on to the individual).

15. The PRA will endeavour to secure the attendance at a meeting of any identified individuals who are current or former employees of the PRA. It should be noted, however, that attendance by an individual at a meeting with you is voluntary.
16. In the event that you wish to meet with any other individual, currently or formerly employed by the FSA/FCA or HMT, you should follow the process above and the PRA will contact the FCA or HMT to request its assistance in contacting the relevant individuals and arranging the meetings.
17. Any meetings with individuals not within paragraphs 15 and 16 will be arranged by your team.
18. Meetings will be arranged at a mutually convenient time for yourself and the individual. You will provide to the PRA, no less than six working days in advance of the meeting (i) a broad outline of the topics you wish to cover during the meeting and (ii) a list of the principal documents you may wish to reference during the meeting (together the "meeting information"). The PRA will pass the meeting information to each individual no less than five working days in advance of the meeting between that individual and yourself. Meetings will be recorded by your professional services team and a transcript provided to the individual¹.
19. To the extent possible you will endeavour to hold any meetings at a mutually convenient location for yourself and the individual with whom you are meeting. If you require it, the PRA will make available for any meeting a suitable room at its premises at Threadneedle Street or 20 Moorgate.

Third party assistance

20. You may contact third parties directly for assistance in relation to the investigation and the PRA will, to the extent that it is able to do so, facilitate such assistance.

Escalation

21. The PRA is committed to providing you with assistance to facilitate your conduct of the investigation. However, in the event that you consider

¹ For the avoidance of doubt, the transcripts will not be made available to the PRA. The transcripts, however, will be retained by the Bank of England after the review has been completed in a secure electronic area, in accordance with the Bank of England's Records Management Policies and Standards.

that the PRA is not providing you with the co-operation or information that you reasonably require to fulfil your responsibilities, you may escalate matters to the Secretary of the Bank of England and thereafter, if necessary, to the Senior Responsible Officer at HMT.

D. Legal privilege and confidentiality

Privilege

22. It may be necessary for the PRA and/or FCA to provide you with information that is subject to the PRA or FCA's legal privilege. Neither the PRA nor the FCA will withhold documents from you on the grounds of legal privilege but, for the avoidance of doubt, the provision of such material to you does not constitute a more general waiver of legal privilege.
23. It may also be necessary for HMT to provide you with information that is subject to HMT's legal privilege. HMT will not withhold documents from you on the grounds of legal privilege but, for the avoidance of doubt, the provision of such material to you does not constitute a more general waiver of legal privilege.
24. You may refer to privileged documents in your report but the PRA (having consulted the FCA where the documents are subject to FCA privilege or HMT where the documents are subject to HMT privilege) will decide whether to redact parts of the material provided to persons as part of the representations process referred to in paragraphs 28 and 29 below or of the final report before its submission to HMT on the basis that this is necessary to protect and preserve privilege. If the PRA considers that redaction is necessary, it will include in the report to be submitted to HMT reasons for the redaction.

Confidentiality

25. It may be necessary for the PRA to provide you with information that is deemed to be confidential within the meaning of section 348 of the Financial Services and Markets Act 2000 ("FSMA").
26. You may refer to such confidential information in your report. If required it will be the responsibility of the contacts referred to in paragraph 4 above to seek, for the purposes of such references, the consent of the person from whom the information was obtained by the PRA and, if different, the consent of the person to whom it relates. If such consent is not obtained, you may nevertheless refer to such confidential information in your final report and the PRA will decide whether to suggest redactions when submitting the report to HMT on

the basis of the restrictions in section 348 of FSMA. If the PRA suggests such redactions, it will include in the report to be submitted to HMT reasons for suggesting them.

Naming personnel

27. Your final report will not name nor identify the position of any personnel (whether current or former PRA, FCA or HMT staff or former FSA staff) who were below the level of: in respect of HMT, Deputy Director; in the case of the PRA, FCA; and FSA, Director at the time of their actions.

E. Representations Process

28. Insofar as you intend in your report to criticise individuals, groups of individuals whose members are identifiable or organisations, including the PRA and FCA (both in its own right and/or as the FSA's successor for actions pre-April 2013)), you will (i) identify those individuals, groups or organisations (ii) provide them with a reasonable opportunity to make representations in relation to your proposed criticism and (iii) consider those representations before finalising your report.
29. The contacts referred to in paragraph 4 above will (i) assist you, if so requested, in deciding which individuals, groups or organisations should be given the opportunity to make representations and (ii) provide you with such administrative assistance as you may reasonably require for the purposes of conducting the representation process.

F. Governance and reporting

30. You will keep the SRO informed in relation to the logistical progress and costs of the investigation, but not in relation to matters of substance.
31. You should raise directly with SRO any matter which you consider to be so urgent or important that it needs to be disclosed to them.
32. You will share a draft of your report with the SRO for information only. The SRO may at his discretion share, and discuss, the draft with the Project Review Board.
33. To the extent that you consider it necessary for the PRA to address issues relating to factual accuracy, or confidential information pursuant to section 348 of FSMA, you may share the relevant sections of your draft report with the contacts referred to at paragraph 4 above. These contacts will, with your specific and express permission, be entitled to

share these sections with appropriate individuals at the PRA for the purposes of assisting you and finalising the draft report.

G. Publication

34. The PRA will arrange for your final report to be submitted to HMT which will consider whether to publish it in full or whether part(s) of it should be withheld from publication (in accordance with section 82 of the Financial Services Act 2012).