

DIARY DATES

ACCOUNTABILITY IN THE REGULATORY SYSTEM

21 September, 9am - 12 noon
Wycombe Wanderers FC,
Adams Park, High Wycombe

7 October, 12 noon - 3pm
Locktons, The St Botolph Bldg.,
138 Houndsditch, London

With the Treasury Select Committee set to question the Financial Conduct Authority over its lack of transparency and rising costs, TSC member Steve Baker MP will address financial advisers at a meeting organised by Libertatem and sponsored by Lockton PI. It will be your opportunity to come along and make your views known to Steve, who will then report back to the TSC.

BY AN ADVISER, FOR ADVISERS

30 September, 9.30am
Witney Lakes Resort,
Oxfordshire OX29 0SY

Organised by Oxfordshire-based adviser Philip Hanley, the meeting will feature presentations from active and passive fund managers, a 'very interesting' specialist provider, and Libertatem's Garry Heath on his quest to establish a representative trade body.

ISLE OF MAN ADVISER MEETING

17 October, 12.15pm
IOM Financial Planners &
Insurance Brokers Association,
Edgewater in Athol Street
Douglas, IOM

Garry Heath will be speaking to advisers on the Isle of Man about Libertatem, its aims and objectives, and his experience of taking on the Regulator and advising on Government policy.

YORKSHIRE ADVISER MEETING

October (TBA)

For more information and to book your place, email office@libertatem.org.uk.

The summer break saw Libertatem hard at work preparing for the return of Parliament – with an MP surgery campaign top of an extensive list

Libertarian

THE NEWSLETTER OF LIBERTATEM | OCT 2016

Our Autumn of Discontent

AS PARLIAMENT TOOK OFF for their annual summer holidays, we at Libertatem abandoned our plans for a summer vacation on the English Riviera (no Swiss mountains for us) and instead began planning our activities through to the end of the year.

For those of us who want to change regulation and its inequities, the next six months promises to be very productive.

A Theresa May government will be very different to that overseen by David Cameron. She has appointed people who have practical business experience and all of the new Treasury Ministers who make have run their own businesses.

The message being sent out is that democracy is back – and working. All political parties have experienced a big Post-Brexit upsurge in recruitment – and so has Libertatem. This gives advisers the best opportunity to

influence government policy and thinking than we have had for more than a decade. Mrs May has committed to change the way Government does business; her ministers must stop talking about issues and start delivering results.

Politically, the FCA is in a mess. It was a creation of the political class who are no longer around to defend it. Project Fear has further compromised their civil servants.

Meanwhile, in Parliament, we witnessed over 80 MPs unite to criticise the FCA in the 'Vote of No Confidence' debate. Treasury Select Committee Chairman Andrew Tyrie has since said that the FCA is in 'Special Measures'. It's a position we need to develop straight away.

So if there was ever a time to create change and redress the balance IT IS NOW! But we need to stop moaning, unite as one and get working. We have

devised a number of initiatives designed to promote the cause of impartial advisers, the first of which is our MP Surgery Campaign, which we will be shortly issuing to our members.

Our current membership now covers more than 150 constituencies and the surgery campaign will consist of a bullet point crib sheet which will enable advisers to present a structured argument to their MP, along with a briefing note to leave with them.

We will also be in attendance at the Tory Party Conference where we will be meeting with Treasury Select Committee members and a number of cross-party MPs sympathetic to our cause.

It's going to be a busy few months. If you haven't already joined us, it's time to do so. Your support will go a long way to helping us achieve a fairer system for all financial advisers.



If you do not have a voice – **you won't be heard**

All successful professions unite to protect their reputation – **except the financial services industry**

The banks and insurance companies invest heavily in lobbying – **we must compete, or we lose**

It's time to join your trade association

The adviser who came in from the cold

When you embark on a journey you need milestones. An important one has recently appeared in the shape of IFA and regular media contributor Dennis Hall.

Earlier this year, Yellowtail's Dennis Hall wrote two articles for Money Marketing debating whether or not he should join Libertatem. The articles were very revealing on many levels, not least because Dennis is representative of so many other advisers.

He recognises that the industry needs to change, but – until recently – was unable to accept that change was only possible if advisers unite to bring it about.

Entitled 'Why I'm giving Garry Heath's trade body a second look', Dennis outlined his initial reservations about joining Libertatem. 'There is something about the language that is bothering me. It is the underlying pugnaciousness and the sense it is a fight they are after.'

However, after being disappointed with the outcome of FAMR's review, Dennis began reconsidering his position. He also began questioning who was actually representing him.

For the majority of advisers, the Financial Advice Market Review failed to deliver anything tangible for the small to medium sized firms. They have been failed by a system that insists on looking at advisers as salesmen. Policyholders and regulators are continuing to portray the advisers as being the bad apples, while the banking sector has been given the go-ahead to carry on regardless, without fear of prosecution.

In his second and concluding article for Money Marketing, Dennis put it very well. "To even the score ... I decided I wanted someone in my corner with all the fire and tenacity of an angry Jack Russell, nipping at the heels of the policymakers. I joined Libertatem." Its publication resulted in 40 newly completed membership applications for Libertatem.

In terms of Directly Authorised firms, we are now the market leader but so many more will need to join to allow us to create a proper trade association with the infrastructure that advisers deserve. As a member, you are in an ideal position to promote Libertatem to your fellow



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So I joined Libertatem.

advisers; the faster we grow, the faster we can deliver results.

As our membership numbers rise, so does the number of sponsors taking an active interest in us. This, in turn, will help us fund more campaigns and initiatives over the coming months as we develop our commercial offering. We have already announced Lockton as our PI broker and Cascade who have developed a cash management software system. We also have a number of other opportunities in the pipeline and expect to be launching them soon, along with our ever expanding Partners Programme, which allows third parties to sponsor us.

Like Dennis, many advisers are believing that Libertatem can make a difference and that we are now the only trade association out there that truly represents their interests. With your support, we can bring about the positive change that will allow advisers' businesses to flourish and grow.



Libertatem asked to take active role in Connaught Fund

From its formation in early 2015, Libertatem has always taken a healthy interest in the Connaught Fund.

This is due in part to the fact that some of our membership are impacted by it. But, more importantly, the case provides a shining example of regulatory failure at the highest levels.

We have already taken part in advising MPs on an adjournment debate on Connaught. It was also a prime driver on the FCA "Vote of No Confidence" debate which took place in January of this year.

But now Libertatem has been invited to take a more intense approach and we will be working with a number of advisers and investors to continue the pressure on the FCA to get the matter resolved properly.

History

The Connaught Fund was a property fund which arbitrated the difference between normal lending rates and bridging loan rates.

Properly run, it should have not have created any issues to clients, or advisers. However, it was fraudulently plundered by the directors under the noses

of Capita and a big five accountants.

The fraud was brought to the attention of the FSA by a Connaught director in January 2011.

Unfortunately, however, the FSA failed to act. As a result 60% of the claimants invested after the whistle was blown.

Connaught Investors now face a mess. In an attempt to hide the FCA's blushes, the FOS has started declaring against advisers who suggested the fund to clients looking to invest – both before and since January 2011.

PI Insurance does not cover Fraud, so some advisers face being driven out of business, creating a potential FSCS event.

However, when those investors arrive at FSCS they will not be paid out, as like PI Insurers, FSCS does not pay out for fraud.

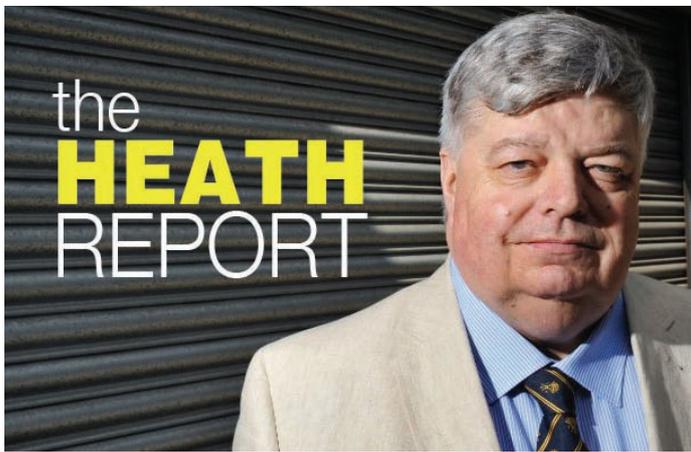
Fund fallout

If you advised clients to invest in the Connaught Fund, or have been contacted by the FCA in connection with it, please contact us on the 01494 569059 or email us at the following address: office@libertatem.org.uk

The Connaught Fund is a shining example of regulatory failure. As the FOS begin declaring against financial advisers, Libertatem has been asked to take on a more active role to exert pressure on the FCA

Regulatory costs have risen, on average, by nearly £2,000 per adviser, each year for the past three years. Libertatem will fight for the future of financial services in the UK – and costs just £240 per annum.

It's time to join your trade association



Your MP will see you now...

The adviser sector is essentially a group of small (and in some cases, very small) companies. Yes, there are some who aspire to be bigger, but few succeed and fewer maintain their lofted position for very long.

The fact is, we compete in a market of major firms who have almost unlimited access to capital and influence but still fail to capture anything like the market share that their size might expect. This may be because the public look upon the larger firms in the same way a mouse looks at a cat – with profound mistrust.

The public know they are the potential victims of poor products, poorly sold. All the major financial scandals to date have centred on the big firms. During the Pensions Review, bank clients were found to be 16 times more likely to have been misadvised than their IFA equivalent.

So, given their poor consumer record, why have these firms been allowed to continue trading? Put simply, it's because they have clout, massive lobbying budgets and are considered to be too big to fail. Plus, in some cases, too big to even regulate.

Witness how the directors of both HBOS and RBS have avoided proper disciplinary actions. Or how the Treasury has canvassed the US authorities to ensure that Barclays received a lighter fine than planned for LIBOR transgressions.

Advisers cannot compete in that world and shouldn't even try. We have had 15 years of trying to use the banker's system to advantage advisers. It has completely failed and, let's face it, was always going to.

It is time to play our own game and use our own strengths to deliver an effective regulatory system which reflects our newly created professional status. To achieve this we have, a number of assets at our disposal which we need to deploy.

Our biggest asset is the advisers themselves. Advisers have a particular and valuable talent. The Financial Services market is complicated and confusing. An adviser takes all of this complexity and delivers it in a simplified form to their clients. This is exactly the same talent that you need to lobby MPs who have no greater ability to ingest detail than the average client.

If we are to change the way advisers are regulated we need to unite and play to our strengths. There has never been a better time to come together and pressurise the policymakers.

In the pipeline – THR3

Last year, the Libertatem team published The Heath Report 2 (THR2) which looked at how RDR has compromised the consumer's access to Financial Advice. This independent document has influenced policy all over the world. But, here in the UK, the regulatory regime has done everything it can to pretend it doesn't exist.



However, thanks to lobbying and pressure from Libertatem, the Treasury Select Committee has forced the FCA to comment on the THR2's findings and now they will face further questions from the TSC. The regulator must be held to account and we fully expect Libertatem's Director General Garry Heath to be called as a witness.

We produced THR2 for less than the price of the FCA's flower budget last year. We could have done an even better job with more support. Which is why we have decided to press ahead with a follow up report. The Heath Report 3 (THR3) will further expose the failings of the regulatory system here in the UK and will provide more ammunition for the TSC, whose chairman Andrew Tyrie stated that the FCA was 'not fit for purpose'.

The report will focus on the reduction in client numbers per adviser since the publication of THR2 and the rising regulatory costs since the introduction of RDR, which are currently averaging an increase of £15 per adviser, per day, per year – and are set to go up again.

The second asset is the relationship that the adviser has with his client. Unlike the big players, the adviser is uniquely positioned as the agent of the client. He is on the consumer's side and must unite with real consumer representatives to deliver a proper regime that the client can afford. Indeed, there is nothing to stop our clients lobbying MPs themselves. It has certainly happened in the past, to great effect.

So what is the target of all this activity? MPs and the media. We have spent the last 15 years trying to get the Treasury and its officials on our side, but they are already in the pocket of the bigger players. We know from experience that, without external pressure, they will not help our sector. But with external pressure, they will have little choice.

Libertatem is putting the final touches to its first Surgery Campaign which we will be issuing to members in the coming weeks. Our current membership covers over 150 constituencies at work – nearly a quarter of MPs. Add in those advisers who work in one constituency but live in another, and we're well on the way to a third of all MPs.

Our message is to return accountability to regulation. We need a change in legislation that makes regulators accountable to the Parliament that created them. Along with this, we need to create regulation that our clients can afford. The current system creates a surcharge around 25%, which is simply unacceptable.

This is why Libertatem is suggesting that all professional advisers are regulated by their profession to a professional standard. Then we can avoid being regulated as mini-banks, with all the cost and complexity that delivers. Similarly we need disputes to be resolved by an ombudsman system which allies itself to the way PI insurance works. FOS must have rules, not just resolve disputes by dictat.

Finally, we need the cost of FSCS paid for by the clients who are its potential claimants, not the much smaller numbers that are currently being advised.

So let's get out there. Shake off any victim mentality and start telling the world how good we are and what we need to be bigger and better. Then – and only then – we may actually achieve change.

Libertatem Parliamentary Briefing

Our members currently work from more than 150 constituencies – with many more living in separate constituencies – giving them access to nearly a third of MPs. By following this adviser briefing, we can appraise them of current regulatory issues and exert pressure on Teresa May’s government to reform the current system.

UNACCOUNTABILITY

The current regulatory system was created by the Financial Services and Markets Act 2000 (FSMA 2000). The Act created a Regulator, Ombudsman and Compensation Scheme which was meant to be “independent” of government. In practice, it is highly influenced by the Chancellor & Treasury as well as those who influence the Treasury, namely the Banks.

For advisers, the regulator’s “independence” means that they cannot successfully use the normal Parliamentary processes to influence the regime which increasingly controls their life. The costs for Libertatem’s average member have increased from £4,200 in 2010 to £22,000 this year.

For consumers, the current rate of cost increase is impacting on the fees consumers pay with up to 25% going on direct regulatory costs. Similarly, since the Retail Distribution Review, millions of consumers no longer have affordable access to advice. Like advisers, consumers have no influence on the regulatory regime with the FCA Consumer Panel members comprising of public sector workers and policy theorists.

For Westminster, the current structure is an affront to the democratic process. MPs who question the Treasury are told that regulation is beyond their influence as it is “independent”. However, they are happy to take responsibility for things that go right.

The Treasury Select Committee regularly questions the regime but, thanks to FSMA 2000, the FCA is not obliged to answer the questions and has shown a lack of regard for the TSC and Parliament in general.

The Treasury are the only people happy with the current regime as it allows them to have influence without taking responsibility. For them, the regulator can bury embarrassments and protect



How to book your surgery meeting with your local MP

You may have two MPs you can approach:
One where you live and one where you work.

If you do not know who your MP is, you can find out by visiting www.parliament.uk/mps-lords-and-offices/mps/ and entering your postcode.

Your MP should also have a local office which can be found by entering his name into the Google search engine online.

Alternatively, you can ring his Westminster Office on **0207 219 3000** which is the main House of Commons switchboard.

Once you have made your appointment, you may be asked for ID. This is because there is increased security at many surgery locations since the murder of Jo Cox MP.

Libertatem’s Parliamentary Briefing contains the points you should make but, in your own words, you should express your own thoughts and experiences.

Taking your regulatory invoices to show your MP is a very powerful tool in emphasising the true costs you are having to pay to the regulatory bodies.

the powerful. It should be protecting consumers. Often, as in RDR, it works against the consumer interest.

Longstop is the shorthand name for the regulator’s failure to apply the Limitations Act 1980 to the financial services advice market. Apart from the fact this is illegal, as that Act precedes the FSMA 2000, the regime also claims that this issue was discussed during the passing of FSMA, although we can find no evidence of this. If the regulator wants to extend exposure to claims beyond the Limitations Act it must ask Parliament for that power.

The practical issue for advisers is firstly that they must store and maintain paperwork in perpetuity, rather than the normal six years. Of more concern, advisers can be pursued well after retirement. We are the only profession that faces this imposition.

FSCS Costs: The Compensation Scheme is the largest area of cost increase that advisers and their clients face. In the last five years, the cost has doubled each year with firms facing charges in excess of £50,000 which is demanded with

one month’s notice.

The FSCS pays out claims against firms that no longer trade. The most efficient way of dealing with this cost would be to place a charge on the investments of ex-adviser clients. This would see all

consumers contribute. Sadly, FSCS chief Mark Neale is refusing to contemplate this obvious solution. Yet another example of the management style that created by an unaccountable regime.

Regulatory costs, including the FSCS, have increase by 61% each year for the last 5 years. There is no practical brake on either the size or cost of the regime. Direct regulatory costs are running at 15% compound, year on year.



The Impartial Advisers Association

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