

IRHPGate: overview of options



Mark Bishop ~ 1 February, 2022

Four routes to consider

1. Political
2. Judicial
3. Civil
4. Criminal

NB: I'm not a lawyer

1. Political

- A. Treasury Committee inquiry
 - Whistleblowers likely to co-operate
 - FCA can be placed under oath
 - Does Cttee have appetite for it?
 - B. APPG inquiry
 - C. Parliamentary debate
 - About Swift
 - Or about FCA/HM Treasury?
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2. Judicial

- A. Judicial review of Dec 2021 decisions:
 - No s382/384/404 redress scheme
 - No Enforcement investigation, sanctions (not in APPG letter)
 - Sophisticated Customer Criteria
 - Deadline for response: 28 January
 - Deadline for application: 13 March
 - Costs: own, adverse?
 - Factors to consider
 - i. Probability of success
 - ii. Impact on civil claims, prosecutions
 - iii. Fundraising: in time?
- B. Judicial review of ‘my’ complaint
 - ○ Resubmitted by IRHP excluded victim

3. Civil

- A. Versus FCA (org, or officers?):
 - Bad faith or human rights breach
 - Human rights almost impossible
 - Bad faith requires evidence. We're sure it exists but don't yet have it
 - Claiming would result in disclosure. At that point, we've (probably) won
 - BUT: expensive; free rider problem
 - B. Versus banks:
 - Complex
 - Limitless resources
 - Time-barred?
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4. Criminal

A. Overview:

- Misconduct in public office
 - i. No s382/384/404 redress scheme
 - ii. No Enforcement investigation or sanctions
- 2012-13, 2021, or both?

B. Routes:

- Police then CPS
- Private criminal prosecution

C. Considerations:

- Political pressure (police/CPS)
 - Cost, difficulty getting evidence (PCP)
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My thoughts

- Focus on key nominals:
 - Nikhil Rathi (former Director, Financial Services Group)
 - Andrew Bailey
 - Charles Randell (why leaving?)
 - Nausicaa Delfas, Simone Ferreira
 - Martin Wheatley, Hector Sants
- They'll implicate each other
- Make them an offer:
 - Redress
 - Not just for IRHPs
 - Royal/Truth and Reconciliation Commission
 - Or 'BBRS Mk2'
 - Reform - 'we're the masters now'
 - ○ Bad actors to leave the stage

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