

The CDP's Unique Design Process – Case Study 1

The City Disputes Panel was approached by a well known City institution, one of the major retail banks.

A foreign exchange business that maintained accounts with the bank had folded. The business had operated by bulking up smaller orders and taking a turn on the rate benefits so offering consumers a better rate than the high street and making a profit themselves. The clients of the business - typically individuals planning to emigrate or buy assets abroad, small businesses making asset purchases and some small and medium enterprises involved in regular trade – were left as unsecured creditors, often for substantial sums.

The poor state of the company's records made it difficult to identify and quantify individual amounts owed and many of the creditors were claiming that the bank had failed properly to regulate the company's accounts and its activities. The bank argued that it had no such duty.

There were over 500 potential claimants and the CDP was asked to design and establish a scheme for the review and determination of the claims. The rules of the scheme were prepared with the intention of providing a simple claims procedure and a speedy method of determination. All the claimants were invited to participate in the scheme and over 300 did so, including a substantial number who were part of an 'action group'.

The CDP appointed Lord Browne-Wilkinson, a retired former senior law lord, to chair the Review Board that would determine the claims. He was joined by a retired banker and an audit accountant.

The review board held a three day hearing to resolve a number of points of law that had to be addressed, although the majority of the claims review process was conducted through written submissions – the claim form issued by CDP was designed so that claimants could easily provide all the facts and information needed by the review board.

After the points of law had been dealt with the board was able to issue key points of determination, which allowed most of the claims to be resolved by agreement between the parties. About 10% needed to be formally determined by the review board – an exercise that took less than two days. The entire process, from opening the scheme to final closure, took just 18 months.

Lord Browne-Wilkinson, writing in *The Times* after the scheme closed, indicated his belief that the efficiency of the 'multidisciplinary tribunal model', with the required expertise available within the tribunal, was key to the success of the scheme and the speedy resolution of the many claims. He believes this compares very favourably with the time taken in conventional court proceedings in receiving and assessing evidence from experts.

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