

Questions for Andrew Bailey, from House of Commons Treasury Committee

Personal

- 1. Do you have any business or financial connections, or other commitments, which might give rise to a conflict of interest in carrying out your duties as Chief Executive of the FCA?**

I have no business, financial or other commitments which would create a conflict of interest for me as the CEO of the FCA. I am familiar with the need to avoid such conflicts having been the CEO of the PRA. I have two current accounts and general insurance policies for my home and car. Pension, life insurance and medical insurance have been available to me as a Bank of England employee.

- 2. Please explain how your experience to date has equipped you to fulfil your responsibilities as Chief Executive of the FCA**

I have extensive experience of financial regulation in the UK, dating back to the late 1980s. I have, therefore, seen the rise and fall of a number of systems of regulation in the UK. Between 2011 and 2013, I was a member of the FSA senior management team - during which time the FCA and PRA were under construction prior to coming into existence in April 2013. Since that time I have been CEO of the PRA and therefore a member of the Board of the FCA throughout its existence. I have also represented the FCA on the Board of Supervisors and Management Board of the European Banking Authority as this position, although held by the CEO of the PRA, covers both prudential and conduct supervision.

As CEO of the PRA I have worked closely with both Martin Wheatley and Tracey McDermott during their respective periods as CEO of the FCA. This has involved working to ensure effective relations between the two regulators in what is necessarily a close relationship. I believe that the working relationship has been effective, and it has - of necessity - had to become deeper than was originally envisaged as a consequence of the enhanced prudential implications of misconduct by banks. Throughout this experience I have always taken the view that, while the PRA needs to understand the extent and implications of misconduct, it is important that the PRA supports the FCA in the fulfilment of its statutory objectives.

In sum, I have had extensive exposure to, and experience of, the workings of the FCA. I am well known to the Board and the senior management of the FCA as well as a good number of the staff more broadly. Added to this is my experience as the CEO of a financial regulator in the UK.

3. Why did you decide to accept the post – and why didn't you apply for it?

I did not apply for the post of CEO of the FCA quite simply because I had a job as CEO of the PRA to which I was fully committed. I was not looking for another job and therefore was not looking to leave a job which I have hugely enjoyed.

I was asked by the Chancellor in early January whether I would accept the post of CEO of the FCA. This was the first occasion on which I had a discussion about taking up the post. My decision to accept was not an easy one in view of my commitment to the PRA and the Bank of England. In the end, after two weeks of careful consideration, I concluded that I would accept the offer. My reasons were as follows:

- that the success of the regulatory system is dependent on the success of both authorities (FCA and PRA) and that the most important challenge we face is to make the FCA a highly effective regulator;
- that the PRA is sufficiently well established to sustain a change of leadership at this time; and
- that I am highly enthusiastic about leading the FCA and will give everything I can to make the FCA a success.

4. Do you intend to serve your full five-year term and apply for another once it has ended?

I intend to serve the full five-year term. I am aware that in early 2013 I made the same commitment to the Committee in respect of the PRA. I would simply observe that this illustrates the limits to the ability of any of us to predict the future.

I am not prepared at this stage to commit to apply for a second five-year term. I don't think this is a reasonable commitment to make at such an early stage.

Financial Conduct Authority

5. What will be your priorities as Chief Executive of the FCA?

I have two principal priorities at the outset of my term as Chief Executive. The first is to establish and embed a well understood mission for the FCA for which it can be held to account. The second is to ensure that the FCA operates efficiently and effectively, is well understood by its many interested parties and principally the public at large, and that it is a place where staff enjoy working and can feel a real passion for public policy and the difficult issues that we face.

The priority of establishing and embedding a clear mission for the FCA is in my view critical to the success of the organisation. Like all public bodies, the FCA has objectives given in statute, and these are critical, but they are necessarily very high level and leave important questions unanswered. Also, and again in common with best practice in public bodies, the FCA publishes an annual business plan which provides a map of the main work priorities for the year. But there is a larger piece missing in the middle which puts more substance to the statutory objectives. This is particularly important for the FCA in view of the size of the landscape on which it operates (over 56,000 authorised firms is one metric to size the landscape). It is therefore not feasible for the FCA to be everywhere on the landscape at all times. It has to make choices when it is seeking to ensure that relevant markets function well, that consumers have an appropriate degree of protection, that the financial system has appropriate integrity, and that effective competition is promoted in the interests of consumers. In order to make those choices it needs a clear mission, and this mission has to tackle the big and hard questions that underpin financial conduct regulation.

The most obvious of these is how to establish a clear understanding of its obligations to consumers and to firms. The FCA is required to take account of the general principle that consumers should take responsibility for their decisions. This sits alongside other important principles, including establishing a level of care for consumers appropriate to the product risk and consumer capability. How to balance the duty of care towards consumers, the duty of responsibility of consumers for their decisions, the role of firms and the role of the regulator, is an inherently difficult question to which there will be many potential answers. It lies at the heart of the FCA's mission. So far, I would say it has not been adequately answered.

Establishing the mission of the FCA is vital to enable effective public accountability and in doing so to establish a stronger public understanding of the role of the FCA. As a point of comparison, I would draw on two examples of this from the role of the Bank of England. First, monetary policy has only become effective in the UK and other countries in the light of establishing the importance of low inflation as the means to achieve stable growth and welfare of the economy. The intellectual case for low inflation was made in the UK in the 1980s and 1990s, and from that came a broader public acceptance. Likewise, the case for financial stability, and for safety and soundness, is in my view being established as a consequence of the financial crisis, just as low inflation emerged from the crisis of the 1970s.

We have experienced, and continue to experience a crisis of financial conduct, which has had damaging consequences for the economy and society. Financial conduct regulation has been criticised heavily for allowing this misconduct to occur. Out of this experience we must establish and embed the mission of the FCA, and give it the much needed underpinning. This mission should also be the basis of answering a number of other very important questions which shape how the FCA operates. Among these I would highlight the need to explain and justify how the FCA decides among its tools when it sees a need for action.

The FCA has more tools than many financial regulators: supervision; competition powers; enforcement; and cross-sectoral approaches. The mission should help to explain the choices made. Likewise, the mission should guide the FCA in the design of its rulebook. Also it is through this lens that I intend to respond to the deregulation objectives of the Enterprise Act. To do otherwise would in my view be a mistake.

Work has begun to put together a proposal on the FCA's mission which I hope we will be able to publish in the early autumn, to be followed by a period of intensive public consultation. I recognise that there will no doubt be sharply contrasting views on these issues, but it seems to me that the success of the FCA depends on being able to establish its mission and thus a basis for public accountability.

The second priority of ensuring that the FCA operates efficiently and effectively will be pursued alongside work on the mission. There is no question that the FCA has suffered in terms of confidence and morale as a result of a small number of well-known and damaging episodes. These episodes called into question operating practices at the FCA. Tracey McDermott has established work to tackle these issues, and there is no disagreement that much remains to be done. It is imperative that the FCA becomes confident of its capacity and ability to put into effect its mission.

There is a lot to be fixed but I have never shirked from hard work. I will provide visible leadership for staff and will ensure that the senior executive team is effective. Working closely with the Chairman, I will ensure that the FCA Board is able to fulfil its role and that the institution is open with the Board. The well-publicised episodes which I referred to above called into question the effectiveness of governance in the FCA. I believe that important steps have already been taken to strengthen the governance, but there is a lot more to be done to embed this throughout the organisation.

6. What criteria should be used to judge your performance as Chief Executive of the FCA over the next five years?

I think it follows that my success and performance as Chief Executive should be judged more than anything else on the two priorities I have set out above, but I'd also refer you to my answer to question 7 for the important caveat on the role of the CEO. My commitment is to provide the leadership to put these changes into effect, to establish a clear public mission for the FCA, and to ensure that it is run effectively and efficiently. This will not be straightforward. It is not an accident that the FCA has struggled to establish itself, doing so against an absence of clear mission and broad acceptance of that mission would be very hard for any leadership, and in my view ultimately unappealing as a proposition for staff.

It is probably useful to set out very briefly some of the big issues likely to face the FCA against which it will have to apply its mission. Among these, I would point to:

- the importance of long-term savings and pension provision in the UK where the role of the FCA has to be set into the context of broad public policy objectives, but nonetheless the FCA must pursue its remit effectively;
- the introduction and embedding of effective competition across financial services, and thus the role of the FCA as a competition authority;
- the establishment of an effective role for the FCA to support innovation and the development of Fintech while ensuring that all the consequences of disruptive financial change can be handled;
- ensuring effective redress processes where they are needed, and in doing so moving away from the more bespoke arrangements of recent times; and
- ensuring that the UK is at the forefront of tackling financial crime of all sorts.

These strike me as good illustrations of areas where performance will be judged.

7. What criteria should be used to judge the performance of the FCA as a whole over your term?

In the most important respects I would not draw a distinction between my performance and that of the FCA as a whole. We will most likely swim or sink together. The FCA has, rightly, applied to itself the Senior Managers Regime, as the Treasury Committee also requested. I am responsible as CEO for the performance of the institution which creates a tight bond, as it should. But it does seem to me to be important that CEO responsibility does not lead to a cult of personality. I was somewhat taken aback by some of the coverage of my appointment. But, to translate this into concrete objectives, I hope that when my time eventually comes to pass the role on, it will be in a context where the CEO remains responsible but the role is less personalised and more judged in terms of the overall strength of senior management and the organisation as a whole.

8. What do you regard as the most important risks to the FCA's statutory objectives?

At this time it is crucial that the UK has strong institutions carrying out public policy and accountable to Parliament. It will be my duty to ensure that the FCA plays its part to maximum effect. The biggest challenge will be to balance the need to build the FCA's capacity and establish its mission at the same time as meeting the large demands that will arise as we implement the decision to leave the European Union. It would though in my view be a mistake to sacrifice the essential task of building the FCA as an institution to the demands of implementing the exit because this would risk leaving the UK without the strong institution that it will need."

9. What do you consider to have been the main successes and failures of the FCA in its first three years? What will you do to address the failures?

The FCA has in my view suffered from the not unusual tendency for a small number of high profile failures to outweigh a larger number of achievements. This is unfortunate, but a fact nonetheless.

The major achievements include:

- putting conduct firmly on the map of the whole sector, we can't measure the counter-factual but it is demonstrably the case that the major institutions are concentrating far more on this aspect than ever before;
- Project Innovate and the FCA's approach to Fintech is widely regarded as at the forefront of practice across the world;
- the prompt action to tackle abuses soon after the FCA took over responsibility for regulation of payday lending; and
- the FCA's strong reputation on its approach to enforcement.

The failures that led to the Davis Review and handling of the Culture Review are well known cases. There are, of course, broader criticisms of the FCA, such as whether more could have been done to prevent the advice gap opening up.

But, I want to use my term to move away from an environment in which the FCA is judged almost exclusively by a small number of high profile outcomes. As with the PRA, the success of the FCA should be judged by the many actions it takes in pursuit of a clear mission. Use of competition powers should not be viewed as an extraordinary event, and nor should the use of enforcement. These are part of the toolkit, as is use of firm supervision. The last of these, supervision, is important because it is the continuous interface with regulated firms. Done well, it is a very powerful tool to get good outcomes.

10. How will you protect and enhance your personal independence and the institutional independence of the FCA over your term as Chief Executive? What role can Parliamentary scrutiny play in this?

The most important step in terms of personal independence, and something that was a condition of me taking the job, was the introduction of the five year term for the CEO. This is the same as the PRA arrangement and my experience there was that it delivered effective independence.

In terms of independence of the FCA, I will certainly stand up for this if I see it as threatened. Parliamentary scrutiny is a vital part of maintaining independence. The discipline of accountability is in my experience a real one. I hope that the Treasury Committee will show a strong interest in the work on the FCA's mission because I see this as an important part of establishing independence.

11. How will you deliver value for money at the FCA?

I am familiar with the recent NAO report into Value for Money in particular involving redress processes used by the FCA in cases of misconduct. The FCA Board has followed the report closely, and no doubt will continue to do so. The report is interesting and for me comes at a very useful time. It illustrates the difficulty of finding a rigorous and useful framework for Value for Money in this area, but I have no doubt that this is an essential part of an effective regulator.

I will therefore work hard to take the conclusions of the review and with FCA colleagues put in place a useful and challenging VFM framework. This will involve a number of important steps. Important here will be to identify the end state deliverable for the FCA. I hope that the work we will undertake on the mission will help here. Also, we will no doubt need to improve the FCA's management information. Into this mix, we will need to find ways to capture at least two important counterfactuals: could the objective have been secured more efficiently by other means; and does the outcome support the decision to prioritise this action over alternatives in other areas. These will not be easy issues to deal with and I recognise that it will involve important judgements. Also, it will be critical to embed the Value for Money framework into the organisation so that it becomes part of normal decision-making, and is accepted as an important part of taking difficult decisions on prioritisation.

Finally, I recognise that there is an important need to ensure that the FCA's budget is used to maximum effect and is not expanded out of line with accepted good practice in public bodies. I have sought to do as much in the PRA. The current FCA budget is flat in terms of continuing activities, but has grown to accommodate areas where the Government has asked the FCA to expand its role. I will in my first year be taking a close look at the FCA budget. An important, but not the only, impetus for such a close look is the deregulation element of the Enterprise Act, in which the FCA will participate. My view is that this is a good discipline, otherwise rulebooks only get larger. But the precise form of the targets needs to fit with what emerges as the FCA's mission. My strong view is that the FCA should "own" and drive forward its application of the Enterprise Act.

12. How do you assess the working relationship between the FCA and the PRA? How can it be improved?

Obviously, I can scarcely claim to be an independent observer of the working relationship between the two authorities. That said, I will venture to say that I believe it is an effective relationship with strong working contact between the two bodies, and a good understanding of the two remits and how they are pursued. We have very deliberately set out to avoid a hierarchy of regulators, and I think we have been successful in this objective. There are differences of working style and approach, and while I think there are changes to be made at the FCA (see my answer

to question 5 above), this is not about making the FCA like the PRA. To be clear, that would not be the correct strategy because it would fail to recognise the important differences of role and approach.

What the FCA and PRA do have in common is that they both serve the public interest, albeit with different objectives. But, the importance of the public interest and public policy is critical to both and this, combined with common interests in terms of firms and activities, creates a strong bond. Those common interests have, if anything, grown stronger in areas that I did not predict at the outset of the two authorities. In particular, I did not predict (and I was very much not alone), that the scale of conduct risk and redress costs in the major banks would become such that it is important to a prudential regulator like the PRA in assessing capital adequacy as well as broader governance, management, remuneration and culture issues in firms.

13. How do you assess the relationship between the FCA and the institutions it regulates? Do you think that the FCA has been too tough on the financial sector or not tough enough?

First and foremost, I don't like terms that imply some sort of "new deal" with firms, and I certainly do not like the term "light touch" as a regulator. My main objection is that the level and intensity of regulation should not vary over time. It should be invariant to cycles in that sense. Experience shows that this is easier said than done, but it is a principle to which I have been strongly committed at the PRA, and which emerges for me out of reviews such as those into the failures of HBOS and RBS.

Second, the FCA must have a strong relationship with stakeholders outside the regulated firms. This is a much more important activity for the FCA than the PRA, where the latter helps consumers by delivering safety and soundness as a prerequisite for good conduct. Much has been written and said about the FCA's relationship with its authorised firms, of which there are around 56,000 at present. Open lines of communication are important, not least because the art of financial regulation is to get people to do things that it had not naturally occurred to them to do (or stop doing). As I noted earlier, it requires the FCA to use its tools (supervision, competition, enforcement) effectively on the basis of clear choices among the tools. It also requires high quality explanation of the choice of tools, with the messages going to all interested parties. This will be a priority for me.

Finally, as I have said before it is not my preference to make statements along the lines of shooting first etc. In my view, such statements take on a life of their own which is not helpful.

14. How do you assess the public profile and reputation of the FCA? Is it important that the public understands the role of the FCA?

As mentioned above, one of my priorities as CEO is ensuring that the FCA is well understood by its many interested parties and principally the public at large. Part of establishing the mission of the FCA is to encourage a stronger public understanding

of the role of the FCA. Establishing and embedding a well understood mission for the FCA will need careful communication to a range of stakeholders. Once this mission is established, it will be clearer, both internally and externally, what the role of the FCA is.

Being open to receiving and acting on feedback from a range of stakeholders will be key to our understanding of how the FCA is perceived externally. I have already met a number of consumer and firm representatives to discuss how the FCA is currently perceived and will continue to do so as we establish the FCA's mission and embed it into business as usual.

Regular engagement with the FCA's four independent statutory panels will continue to be important. These panels represent the interests of consumers and practitioners, including smaller regulated firms and financial market participants and provide an independent sounding board for the FCA. I have already met with each of the Panel Chairs to get their thoughts on areas where the FCA is performing well and areas for improvement.

The FCA holds a quarterly Consumer Network meeting, which I am attending in July, which brings together representatives from a range of consumer organisations to discuss financial conduct issues which are of interest to consumers. This is an important channel for the FCA as it allows us to understand a range of views on the impact of our policies and actions on consumers.

Parliamentary engagement will also continue to be a focus for me and my senior team – both for accountability purposes and to explain the FCA's policies and mission.. The FCA receives around 1000 letters from MPs every year and this is an important source of information about how FCA policies are impacting on constituents.

As I have at the PRA, I will continue to make speeches to a range of audiences about the FCA and encourage my senior management team to do the same. Ensuring that I and my colleagues spend time outside London getting around the Country to ensure that the role of the FCA is understood will also be important. I will also continue to have a programme of engagement with the UK and international media to explain the role of the FCA and to promote or explain particular issues.