

Update on Open Banking

The OBIE is an independent organisation that, following an Order by the Competition and Markets Authority (CMA), was set up in 2017 by the 9 largest retail banks in Britain and Northern Ireland to implement Open Banking.

Open Banking enables consumers and SMEs to share their bank and credit card transaction data securely with trusted third parties who are then able to provide them with applications and services which save them time and money. The UK has been a global leader in this area and it is estimated that half the UK's small businesses and over 4 million consumers now use services powered by open banking technology.

In September 2020, Alison White (a non-executive with experience in corporate governance and with no prior involvement with the organisations concerned) was appointed to lead an independent investigation, with support from the law firm Mishcon de Reya, following receipt of a complaint setting out a number of allegations relating to the OBIE; to the Open Banking Implementation Trustee, Imran Gulamhuseinwala (the Trustee); and to certain current and former senior staff members of the OBIE.

The investigation considered the issues raised under the following five themes: corporate governance; late delivery of accounts; management of conflicts; procurement and value for money and human resource issues. The findings of the independent investigation were reported to the CMA in August 2021.

The investigation considered serious allegations regarding bullying, harassment, discrimination and victimisation. It found that inaction and failures by the leadership of the OBIE allowed a culture of bullying and intimidation to prevail. Separately, it found there was a failure properly to manage conflicts of interest at the organisation and though it did not find any evidence that this was exploited for private gain, there was an unacceptable risk that it might have done so.

The investigation concluded that the Trustee did not ensure that the OBIE was properly managed in accordance with the Retail Banking Market Investigation Order 2017 (the Order).

The investigation also found that a lack of appropriate corporate governance had contributed directly to what happened at the OBIE. It found that the Order set out very little detail about the governance arrangements for the OBIE; that too much power was vested in the Trustee personally with too few checks and balances; that there were failings in the system of risk management and internal control and in the management of culture and values and failure to engage in effective workforce engagement, including when complaints were made; and that no steps were taken to improve the governance when the Open Banking project extended in time and scope.

The investigation therefore also concluded that the CMA, and the nine retail

banks who helped establish OBIE, must accept their share of responsibility for not putting in place stronger governance mechanisms from the outset, for lack of attention to issues of governance throughout the programme and for not improving the governance when it became clear that the project was becoming more complex and far longer than originally anticipated.

The CMA is today announcing the following actions that are being taken following the investigation:

- Imran Gulamhuseinwala has tendered his resignation as Open Banking Implementation Trustee and Chair
- Charlotte Crosswell has been nominated as the replacement Implementation Trustee and Chair, to lead the planned transition to the future arrangements for Open Banking
- New non-executive Directors will be appointed to the OBIE board as a priority, to provide appropriate independent scrutiny and oversight
- Kirstin Baker, an independent non-executive Director of the CMA, has been appointed to lead a review to identify the lessons for the CMA in its approach to designing, implementing and monitoring remedies in its market investigations. The findings of this review will be published
- The findings of the Alison White investigation will be taken into consideration in relation to the future governance arrangements for Open Banking, alongside responses received to the CMA consultation earlier this year. A further update on this will be published as a priority

CMA Chair Jonathan Scott said:

I would like to thank Alison White for her report. The investigation has identified significant failings that require a swift and substantial response. It found that serious allegations – including of bullying, harassment, discrimination and victimisation – were not investigated properly by the OBIE and it concluded that this reflected failures in both the management and the governance of the OBIE. This is simply unacceptable and we agree with Alison White that everyone involved needs to accept their share of the responsibility for this and act on the lessons learned.

It is clear change is needed. I have accepted the resignation of the Implementation Trustee, Imran Gulamhuseinwala, and I am today pleased to announce the nomination of Charlotte Crosswell as Implementation Trustee and Chair of the OBIE. Her authority and expertise make her well placed to take on the leadership of the

OBIE.

The CMA has a responsibility to learn lessons from the failings identified in the governance of the OBIE. I am therefore today announcing a review of the lessons to be learned for our approach to designing, implementing and monitoring remedies in market investigations.

I would like to thank the complainants who raised these issues for doing so as without them these serious issues may have remained unaddressed. The report raises questions about the complainants' right to compensation and I would expect these questions to be considered carefully and with an open mind by the new leadership of the OBIE.

Open Banking is a pioneering intervention that is helping millions of people and small businesses save money and time. The UK is recognised as an international leader in this space. All those who have helped deliver it over the last few years, including the Trustee and all the people currently working at the OBIE, have played an important role in this achievement.

Charlotte Crosswell said:

Since joining the OBIE in my initial role as Transition Lead earlier this year I have already been impressed with the professionalism, dedication and innovation from the open banking team and believe the organisation is in a strong position to successfully take open banking mainstream. Given my background advising the industry on fintech and innovation I am excited to bring my experience to the OBIE Trustee role. The success of open banking, and what the OBIE team has already achieved with the industry and policymakers, has played a critical role for consumers and SMEs across the UK. We must look to leverage this in offering openness and competition in financial services and be ambitious on our journey towards open finance and smart data.

I look forward to the CMA's consultation announcement into the future governance of the OBIE and I hope that this will give us greater clarity and enable us to implement fully the kind of leadership, governance, structure and culture that is important for a progressive and permanent organisation.

Charlotte Crosswell OBE was appointed as Transition Lead at Open Banking Ltd earlier this year. Charlotte has been involved in capital markets and technology throughout her career – as CEO, Board Advisor and Non-Executive Director. She is the Former CEO of Innovate Finance, where she worked closely with Fintech entrepreneurs, government and regulators in addition to working on the Independent Strategic Review into UK Fintech that was published in February 2021. Charlotte also represents UK Fintech on the Department for

International Trade's Financial Services Trade Advisory Group.

1. You can view [Alison White's report](#) on the CMA's website.
2. Open Banking was part of a package of remedies adopted by an independent Inquiry Group of the CMA in 2017 designed to increase rivalry in the provision of banking services. It requires the 9 largest banks and building societies in Britain and Northern Ireland (the "CMA9") to make transaction data available through a common set of routines, protocols, and tools for building software applications.
3. To implement Open Banking, the CMA made an Order which came into force in February 2017 and required the CMA9 to create and pay for an implementation entity – known now as the Open Banking Implementation Entity ("OBIE") – and to appoint an Implementation Trustee, approved by the CMA, to oversee the process.
4. The OBIE was established by the CMA9 as a limited company, Open Banking Limited ("OBL").
5. The CMA9 are: AIBG, Bank of Ireland, Barclays, Danske, HSBC, Lloyds Banking Group, Nationwide Building Society, NatWest Group and Santander.
6. The Open Banking implementation phase will complete in 2022. In 2021 the CMA consulted [on what arrangements should be put in place for its governance in the next phase of its development](#). Responses received to this consultation have been published and the CMA is considering these.