Financial Harm and Victimisation

Book Section

FINANCIAL HARM AND VICTIMISATION

In the past thirty years, consumers of financial services firms have been victims of three major waves of offences in the United Kingdom.

First, the gradual withdrawal of the Conservative government from pension provision, coupled with deregulation of the retail financial services sector in the latter half of the 1980s, created the conditions for a wave of pensions mis-selling. Companies launched into a hard sell, wrongly advising many clients to cash in their existing pensions contributions and transfer them to new, private schemes about which they received false information. One survey conducted by the Securities and Investments Board found that only 9% of pensions companies had complied with legal requirements when originally advising on these pensions' transfers. Meanwhile, although breaches had been first uncovered in 1990, a KPMG survey of pensions advice given during 1991-1993, revealed that in 'four out of five cases' pensions companies were still giving advice short of legal standards. (Slapper and Tombs, 1999, p 63). Early in 1998, the-then new regulatory body, the Financial Services Authority (since 2012, the Financial Conduct Authority), estimated the final costs of mis-selling as around £11billion, with some 2.4 million victims.

At the end of the 1990s, evidence of widespread mis-selling of endowment mortgages also begun to emerge. Following the end of state house-building and government encouragement to buy their homes, millions of such policies had been sold through the 1980s and 1990s based on the claim that on maturity of the endowment policy, the sum returned to an investor would pay off the costs of their homes, a claim which often proved to be false. About five million people were victimised (Fooks, 2003). The saga is uncannily similar to that of pensions mis-selling. First, the list of companies involved in each is very similar. Second, the endowment mortgage scandal was characterised by long term obduracy on the part of companies in the sector initially to admit any wrongdoing, then subsequently to compensate victims.

A virtually identical sequencing of events then unfolded with respect to Personal Payment Protection Insurance (PPPI). PPPI policies were widely marketed and sold at the start of this century, at the height of the credit boom. Financial services firms targeted customers with debts such as mortgages, credit cards or loans insurance against any future inability to meet repayments. But again, these products were often sold when unnecessary, or without customers' knowledge, or indeed were to prove invalid in the event of customers claiming against them. In 2005, the Citizens Advice Bureau filed a 'super-complaint' relating to PPPI mis-selling to the Office of Fair Trading. Yet this did not stop companies continuing to engage in a business they knew to be illegal: some 16 million PPPI policies have been sold *since* 2005. Moreover, the companies embroiled in the mis-selling of PPPI included many of the, by now, 'usual suspects' involved in the previous 'crime and harm' waves.

These will not be the last 'scandals' associated with the retail financial services sector and its direct targeting of individual consumers – quite apart from the wider allegations of crime and harm such as those associated with the fixing of LIBOR and FOREX, sanctions-busting, money laundering, cartelisation, and insider trading. In combination, such phenomena are likely to generate greater media and popular, if not political and regulatory, scrutiny of the sector; and this, in turn, will bring to light further categories of mis-selling.

Any further such harms will involve more or less the same companies. They will affect millions of people in ways that are diffuse. And they will exacerbate now well-established processes of victimisation and social harms, which have had many dimensions.

First, these products and their markets were regulated – albeit not adequately – but state expenditures were consumed in the various stages of this regulatory process, expenditures sourced by general taxation. Second, while millions of individuals did receive compensation, this cannot take account of any emotional or psychological costs that they or their families may have incurred in this process, not least where claims for compensation across each form of mis-selling were, routinely and falsely, denied and denied again. Third, new market opportunities for business have emerged around these waves of mis-selling, markets in 'claims management', where private companies pursue claims on behalf of individuals – on the basis of a percentage of the settlement; thus, private profits were created out of victims' compensation. Fourth, the costs incurred by financial services companies in compensation must be offset elsewhere, through raising charges for other products – so the costs of offending are dispersed to existing and future customers (Tombs, 2015).

Perhaps most significantly of all, taking these waves and layers of harms together, a combined effect of them may be to generate popular anger, anxiety, or apathy. The routine and seemingly endless production of harms may inure people to their malevolence, as the population becomes anaesthetised to such harm. Thus, perhaps the most pernicious effect is that harm and crime become virtually normalised, part of what 'banks' do, seemingly inevitable and unstoppable – and destroying social trust in banking, a basic and a necessary social function.

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***See also*: State-Corporate Harm and Victimology; Zemiology**

Reading

Fooks, G. (2003) 'In the valley of the blind the one eyed man is king: corporate crime and the myopia of financial regulation', in S. Tombs and D. Whyte (eds) *Unmasking the crimes of the powerful*. New York: Peter Lang, pp 105-125.

Slapper, G. and Tombs, S. (1999) *Corporate crime*. London: Longman.

Tombs, S. (2015) ‘Corporate theft and fraud: crime and impunity in the retail financial services sector’, in D. Whyte (ed) *How corrupt is Britain?* London: Pluto, pp 168-176.