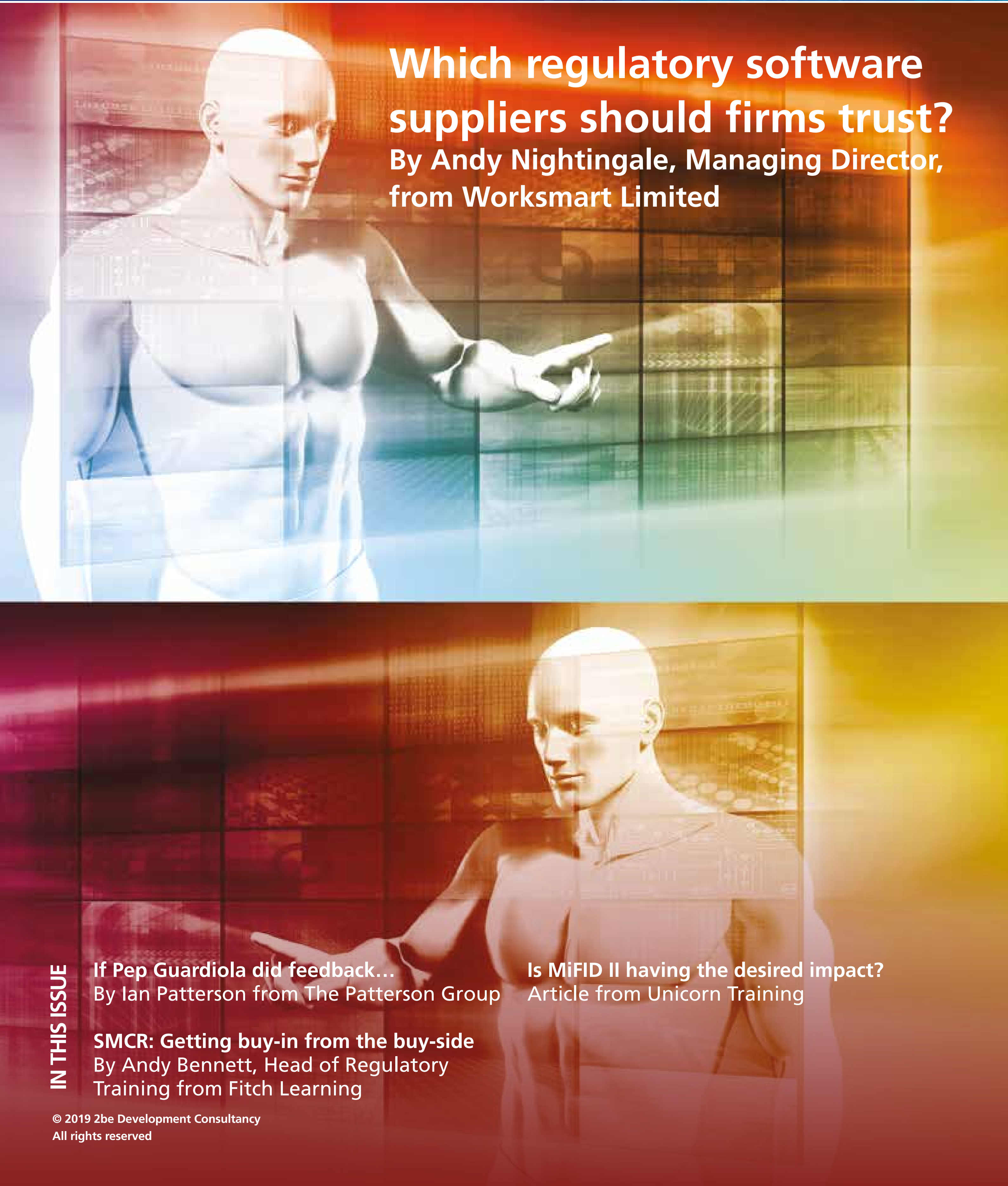
For People Development and People Regulation Personnel within Financial Services

T-C NEWS

COMPETENCE • EXPERTISE • PROFESSIONALISM

APRIL 2019



Which regulatory software suppliers should firms trust?

By Andy Nightingale, Managing Director, from Worksmart Limited

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Welcome to the April edition of T-CNews. The Financial Conduct Authority is a little concerned that solo regulated firms are not engaging with the Senior Manager and Certification Regulations as quickly as they had hoped. We must stress the importance of starting your work in this major change as soon as possible. We have an eclectic range of articles for you in this edition which we hope you will enjoy. They strike a balance between important aspects of regulation, technical knowledge and personal development skills. Enjoy

Jeff Abbott

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2be Development Consultancy Ltd,
12a Gourlay's Wynd, Duns, TD11 3AZ

Telephone 01361 315 003
Email editor@t-cnews.com Web site www.t-cnews.com

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Your Starter for Ten

1. If food is napped, how is it served?
2. In which country did Avocados originate? Mexico, Brazil, Italy, Spain
3. A 'Hutchinson' is what type of container?
4. In cookery, Pelmeni dumplings originated in which European country?
5. Picholine, Gaeta and Kalamata are all varieties of which fruit?
6. Which fruit is also referred to as a Chinese Gooseberry? Kiwi, Peach, Ugli Fruit, Plum
7. Leeks come from which variety of plants? Mallow, Grass, Rose, Lily
8. Which of these fruits is required to be over ripe before they are eaten? Mango, Lime, Medlar, Mandarin
9. What fruit has varieties including Gibbon, Golden Pillow and Golden Button? Durian, Banana, Ugli Fruit, Lemon
10. Savoy is a famous type of which vegetable? Potato, Cabbage, Broccoli, Cauliflower
11. In cooking, what is the term for plunging vegetables into boiling water for a short time, and then plunging them into cold water until they are cold?
12. Oenophobia is the hatred or extreme dislike of which drink?
13. Onion comes from which member of the plant family? Rose, Mallow, Lily, Grass
14. Burpee's Golden is a variety of what? Beetroot, Broad Beans, Broccoli, Cabbage
15. Which of these is the correct name for a type of peach? Ulberta, Ilberta, Elberta, Alberta
16. Broccoli comes from which family of plants? Grass, Lily, Cabbage, Rose
17. In food, 'E' numbers 140-149 are which colour?
18. In food, 'E' numbers 110 – 119 are which colour?
19. Which is the most prominent Vitamin in a Runner Bean? C, D, A, E
20. *Brassica Rapa* is the Latin name of which vegetable? Cabbage, Potato, Turnip, Carrot
21. New American, Stubbs and Hicks Everlasting are types of which berry? Strawberry, Cherry, Mulberry, Blackberry
22. What fruit has the Latin name *Citrus aurantifolia*? Orange, Plum, Lemon, Lime
23. 'It's the real thing' was a 1970's advertising slogan for which product?
24. Damsons belong to which family? Plum, Cabbage, Rose, Grass
25. Calabrese is a type of Broccoli from which country? England, Italy, Spain, France
26. Rossana, Dumbarton Oaks and Vincent are all types of what? Kiwi, Peach, Plum, Ugli Fruit
27. A (What?) Grieve is a type of Apple? David, Edward, James, John
28. *Brassica oleracea botrytis cymosa* is the Latin name for….? Broad Bean, Cauliflower, Broccoli, Cabbage
29. Adam Richman takes on food challenges in which US television series?
30. Interdonato, Feminelle Ovale and Eureka are all types of what? Peach, Lemon, Orange, Lime

Traits of a self-directed learner

By **Paul Archer** from Archer Training

In this short article, Paul examined what it takes to become a self-directed workplace learner and shares his personal experience of self-learning over the last twenty-five years. In the modern office, training departments are moving away from being the giver of training more to the provider of opportunities which staff can use to achieve their workplace goals.

What do Bill Gates, Mark Zuckerberg and I have in common?

We're all self-directed learners. I've proudly been a self-directed learner since 1994 when I realised that no employer of mine was ever going to provide me with the training and development that I needed to make a success of my fledgeling career. Twenty-five years' of self-directed learning and I do feel I've succeeded in evolving myself for the future and have done so through self-employment where I didn't officially have a training budget.

It's worked for me and will work for all future learners in the workplace, gone are the days when students gorged on company training programmes. The future is for those that make it happen.

Here are ten traits that you need to master to become a self-directed learner. In no particular order

The first trait is initiative. If your learner has set themselves a goal to learn something, they have the initiative and capability to find suitable learning. They are adept at searching the internet for reading materials as well as audio and video and can also venture offline as well. They just seem to find what they're looking for. Care your "Great Wall of China" doesn't block anything of use value – most corporate IT departments block useful sites, they don't trust people.

Independence comes next. With their learning goals in tow, self-directed learners don't need permission to learn; they feel empowered to do so. Some companies even provide a budget to further their independence. My employed position in 1997 awarded me with a training budget of £1,000, a year and I was trusted and empowered to use this to buy training. I used it to part fund my early NLP training.

They network well. Possibly members of various associations and unions that provide relevant learning and development. Networking with fellow members and others provides ample learning opportunities sometimes over a coffee or fireside chat. Learning doesn't have to be formal. My best ideas and insights have come from spontaneous chats with people in my network, and my superior education events have come from my membership of three associations – PSA, SPA and AAISP. Google them.

They embrace responsibility for their learning. The buck stops with them; no one else is going to help them develop, it's something they're accountable for.

Self-directed learners plan their own development time. I devote a day a week to personal development, not every week, but on average. Only with this amount of time investment can I achieve my learning goals.

They're curious to learn things. A goal can lead anywhere. Back in 2012, I committed to master how to create video for my business and boy was this a giant learning curve for me. Seven years' later I'm producing some half decent videos, but my curiosity took me to other areas beyond just video production. I'm currently exploring and using live streaming, so my video work streams live to YouTube and Vimeo. My curiosity also took me into Research and Development grants and tax advantages which have saved me a packet over the years.

Self-learners don't mind starting something at 80% ready. Too many people start projects or activities when they believe they are 100% ready to go. Self-learners believe in learning as you go, and this often requires that you start something and learn/improve as you progress. That's the modern way. I watch some of my early incarnations of videos which are still on YouTube and compared to my current videos are quite awful. But at the time, they were new, interesting and achieved my objectives.

Self-directed learners are good at erudition and can adopt basic study skills. I'm aware of my learning style acutely. I know that reading works for me, listening to podcasts gives me the freedom to learn where I want. I know I have to make notes when I learn, I use mindmaps (that's a technique I learnt way back in the nineties by reading some books). I work well in conferences and can listen to a really good speaker for hours. Incidentally, I don't do learning activities in groups – that's not my cup of tea. I'm very aware of how I learn.

Self-directed learners understand the unlearning process. When you learn something new, you have to unlearn the old first. Otherwise, you're just piling on new on top of old, and you will struggle to see new ideas and innovations. Before you decide to learn something new, you unlearn the old. For example, when I was learning about trainer video, I had to unlearn all the presentation skills I learnt when performing in front of a group – interaction, questioning, eye contact, movement, gestures – do these things when being videoed and it'll all go wrong. On the video you look at the lens, keep your gestures minimal preferably nil and maximise your facial expressions and voice.

Finally, I enjoy my learning. It can be hard work, tiring and prone to errors and mistakes but this is what gives me the benefits I seek. There's always a point, a scary moment when you don't understand what it is you're learning. This can cause stress, and you feel vulnerable. You have to drive yourself through this because with a tenacious attitude you will learn it.

With your people committed to self-directing and controlling their learning, the next step is to re-organise your learning and development offering to fit this learner. That'll come later once you've influenced the culture of your workforce first.

Paul Archer has been in workplace learning and development for thirty years and works with training departments who want to modernise their offering to meet the needs of the workforce of the 2020s. He can be contacted on LinkedIn at www.paularcher.uk

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SCENARIO BASED LEARNING

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Exclusively for readers of TC News

Get in touch with our client relationship team for an individual meeting to discuss how we can help train your employees: **www.fitchlearning.com/smcr**

SMCR: Getting buy-in from the buy-side

What's good for the sell-side is good for the buy-side explains **Andy Bennett**, Head of Regulatory Training at Fitch Learning.

As we know, the Senior Managers and Certification Regime (SM&CR) was introduced in the UK for the banks in 2016 as a regulatory response to the Parliamentary Commission on Banking Standards. Yet now the regulator is rolling this out to solo-regulated firms and it is bound to raise the question from many in those firms, "What does this have to do with us?". How can we get buy-in from the buy-side?

The first thing to identify is that harmonising the regimes around licensing individuals is a sensible thing to do. Having, for example, client dealing functions approved by the regulator as fit and proper in one part of the industry and certified by the firms in the other makes no sense. Bringing the solo-regulated firms into SMCR allows comparability and consistency of standards, it provides for easier movement of employees between firms and it creates a clear framework of governance that can be identified with throughout the financial services.

Another advantage for the solo-regulated firms is that this has been done before. This is not an ill-thought-out knee-jerk reaction to regulatory breaches. It is a well bedded in regime. The regulators have had time to identify what works well and tweak what possibly doesn't.

One notable improvement to the original regime is the introduction of the Directory to augment the Financial Services Register. At the moment, only approved persons are visible on the FS Register, which, under SMCR, excludes certifications functions. Many rightly feared that the removal of the huge number of existing CF30s, which would include advisers and investment managers, from public view would damage the credibility of and the trust in the financial services. The Directory solves this problem.

The Directory will be a searchable database of not only those who have been approved by the regulator, but also those who have been certified by their firm. This will allay the fears of a lack of transparency. It will also appease those individuals who wear their CF30 with pride and see their regulated visibility as a part of their professional qualification to deal with clients.

This leads to the main focus of the SMCR: individual accountability. With a financial services firm – as within any firm – accountability is a good thing. Ensuring that all those who make decisions or take actions on behalf of the firm have a satisfactory reason for making those decisions or taking those actions can only drive up standards. For those individuals who have always had satisfactory reasons, there will be no real change; for those who have not, there is probably a need to rethink those actions and decisions, creating an improvement for both customers and the firm.

Another major draw is how this accountability escalates with transparency through the firm, with each line manager assessing their team and being held to account for that assessment. The existing process of the regulator approving individuals from afar creates a disconnect between the individual being assessed and the assessor. The supervisors and managers that are engaging with employees on a day to day basis are better placed to affirm a person's honesty, integrity and reputation. In addition, this regular, and sometimes continuous interaction leads to a much greater level of visibility on what is going right and what could go wrong – before it goes very wrong. The opportunity to spot small problems and deal with them early before the regulator needs to get involved can only be a good thing.

Then there are the Conduct Rules. These tell us how we should conduct our behaviours (with Integrity and skill, care and diligence) and the results of that appropriate behaviour (fair outcomes for customers and market conduct), with the cooperation with the regulator acting as regulatory filter between the two. Looking around many of the solo-regulated firms we work with, these basic tenets of behaviour are already stated and adhered to within the existing business model through their values, ethos or codes and already applied to a much wider employee base than the Statements of Principle. If anything, the Conduct Rules should be seen as a vindication of the practices and attitudes that have been promoted by these firms for a long time.

> "Bringing the solo-regulated firms into SMCR allows comparability and consistency of standards, it provides for easier movement of employees between firms and it creates a clear framework of governance

As a final point, because this has been done before, the available expertise is also greater. Many L&D professionals from the banking sector who were involved in the first round of SMCR can now provide a valuable resource to solo-regulated firms. Training providers that assisted the banks and insurance companies have established resources to allow clear understanding of the regime and its implication to a range of staff in the firms from the senior managers, through certified persons to other conduct staff. The ability to draw on this expertise and experience will help the establishment and positioning of this regime in the run up to 9th December 2019.

Mortgaging our pensions to pay our contributions

By **Henry Tapper** from First Actuarial

The NHS "scheme pays" facility allows members, faced with a tax liability arising from breaching the annual allowance, to meet the payment from future pension benefits. This amounts to taking our a mortgage on the pension.

For many senior members of the schemes, especially consultants and senior GPs this is becoming an annual event with the charges on future pension severely damaging retirement prospects.

> "Could parents desperate to get children on the housing ladder mortgage their pension rather than remortgage their house?

The problems start when a significant pensionable pay rise triggers the scheme to notify HMRC of a chargeable event. Normally the deemed benefit from the consequent increase in pension rights would not exceed the annual allowance (£40,000) but especially where the benefit relates to final salary rather than a career average formula, a substantial pay rise late in a career can often be valued at more than £100,000. Any benefit falling due over the annual allowance is taxable at the member's marginal rate (typically 40 or 45%).

There is a great deal that can be done to ease the pain using carry forward and a careful analysis of pension input periods, most doctors who are hit with unwanted and unexpected tax-bills will make use of tax advisers and financial planners. However there is a systemic issue for those regularly earning over £150,000 and that's that the Annual allowance tapers from £40k to £10k the more that is earned. Any doctor regularly earning more than £210,000 can expect (with an AA of £10k) to be paying an AA bill every year. Those on the taper report the combined impact of paying 45% on income and a further 45% on pensions makes the financial value of any extra work very limited.

At a time when the NHS is stretched and waiting lists getting longer, pensions are being cited as making matters worse. In this complicated world, doctors are evolving their own pension language – this includes the "hokey", the term they use for opting out of the scheme for a year for tax purposes. The concept of opt-outs and partial opt-outs is becoming increasingly relevant to doctors trying to best manage their tax-affairs.

It is against this increasingly febrile tax environment that the opportunity to defer the payment of tax into retirement is becoming popular. Nobody likes to pay a tax bill but to pay it be means of a small clip on a lifetime of personable earnings is a lot more comfortable to the medical profession than paying upfront.

Scheme pays is so painless that it has been advocated as a means of paying other pensions bills, including the cost of advice. Certain notable commentators, including Sir Steve Webb, have suggested that scheme pays might be an alternative way of paying the advisory charge for a pension transfer analysis. Heads you transfer, tails you take a small clip on you pension.

Critics of extending scheme pays argue that this is the start of a slippery slope, that could lead to a defined benefit scheme turning into a flexible benefits plan. Could schemes pays be used to pay for ongoing financial education courses or even become a source of more general finance. Could parents desperate to get children on the housing ladder mortgage their pension rather than remortgage their house?

The concept of a pension as a means of financing is of course nothing new. Small self administered schemes and executive pension were regularly tapped for self-investment and loan-backs, but these needed to be commercial arrangements. There has never been a legal means of pension-busting and HMRC's attitude to unauthorised payments is draconian (as those caught in pension scams will know).

Scheme pays is the first legitimate means of buy-now ; pay-later and ironically it is sanctioned by HMRC as a means of maximising tax-revenues.

So far, the prospect of using scheme pays to finance advice is at no more than discussion stage. A more likely direction of travel for scheme pays is as a more general tax-collection facility for HMRC.

Were HMRC ever to implement a shift to a single rate of pension tax-relief or (in a more extreme example scrap tax-relief and move from an EET to a TEE tax framework, scheme pays could be the means to do it.

Transitioning those used to paying contributions net of tax-relief to paying the full gross contribution might be considered too much of a financial strain. Creating a debt against a future capital sum or a future pension , based on unpaid tax could prove more palatable.

Rumours that HMRC has been exploring this idea regularly arise though no Government consultation has ever tested this idea. It might yet be the follow up to Pension Freedoms for a chancellor looking to pull a rabbit out of the hat!

In conclusion, scheme pays is an extremely bright idea – which if used responsibly, can be very helpful to someone with an unexpected persons tax bill. But as with Pension Freedoms, it has the capacity to eat the pension it serves

It is both a tool and a weapon with all the beneficial and detrimental connotations those words produce.

Action Learning – NHS Masterclass

John Reynolds from Expert Pensions

> “The NHS will NOT tell them or calculate what their final benefit options look like… until after they retire.

As a chartered financial adviser, how many conversations have you had about AA and LTA this year?

How many of those are from members of the biggest pension scheme in the UK?

A pension scheme with over 1.5 million employed active members? The fifth biggest employer in the world.

With a large number of high-earners subject to income tax, personal allowance, pension annual allowance and lifetime allowance restrictions? My guestimate is over 200,000 earning more than £100kpa, all in the same scheme.

All of them working and living near you.

Who, because of the generous pension accruals offered by the biggest pension scheme in the UK, and whom are affected by AA and LTA reductions, don't know what entitlement they will get from the pension scheme at retirement, until they retire?

Now, that might seem confusing enough, but I'll come back to that later.

I remember presenting on a joint pension platform with the NHS at the Orthopaedic surgeon's conference in 2010 and explaining to doctors, surgeons and consultants that they would need to get their wallets out: the government was coming after them.

The NHS pension they were accruing was too generous.

They were accruing over the limits being set by the Treasury (post 2008 financial crisis) and for the first time ever since the NHS began, their unrestricted pension benefits would be capped and they'd have to pay. They'd have to get their wallets out (and you can imagine how well that presentation went….).

That is now coming home to roost – Big time.

I've had 5 NHS referrals already this year (you'll understand why in a minute…) and here's the typical example:

* Age 55+
* total earnings £200k
* Pension accrued @80-100kpa
* Subject to tapered AA
* maybe has LTA protection, maybe not
* member of 1995 section and or 2008 section and or 2015 section – pick any combination
* 3n/80ths LS TFC in there somewhere
* LTA excess tax charge to pay

And here is the thing: the NHS will NOT tell them or calculate what their final benefit options look like.

Yes, I'll repeat that:

The NHS will NOT tell them or calculate what their final benefit options look like…until after they retire.

AND

Their accountant has no idea. The accountant can't advise on the pension nor understand the interaction between tapered annual allowance, scheme pays options and LTA excess tax charge. Not a clue.

But this is where we come in: this is our job.

The NHS pension scheme administration and support is non-existent for these high-earners.

They need help to understand what lump sum options are available for them and what their final pension income looks like: NOT 40 days AFTER they officially retire (which is the current state of play).

This market needs chartered financial planners who can do these calculations: this market needs YOU.

We have just released our NHS masterclass where we walk you through the technical aspects of Annual Allowance and Lifetime Allowance with a series of video tutorials and a PDF download. Then, to put it into practice and transfer knowledge to business we go through a 'real' NHS case study scenario in full showing you how to apply the calculations etc.

I know that by developing your competence in this area, it will increase your confidence and you will be referred for more work.

I know because that is what happens to me.

As a chartered financial planner you are in the knowledge business. This is business that only you can do.

This ONE masterclass is worth it's weight in gold but you will have access to the WHOLE series of our masterclasses – all designed to lead you through the problem-solving process as well as simplifying the solutions based on real problems that are important, critical, and usually complex.

Our series of masterclasses of advice in action are designed to continue to support your career as a chartered financial planner and help you to put your advice into action: https://expertpensions.co.uk/service/expert-pensions-masterclasses/

Aiming higher: professional apprenticeships

With the development of higher and degree apprenticeships, the **Chartered Banker Institute** looks at the future of apprenticeships in the banking sector.

The UK's first Master's-level apprenticeship aimed specifically at senior banking professionals is now training its first cohort of recruits in a collaboration between the Chartered Banker Institute and Cranfield School of Management.

Thirty-one Metro Bank apprentices are enrolled in Cranfield's MSc in Retail and Digital Banking, which has been formally accredited by the Institute. This means graduates will be awarded Chartered Banker status with the Institute.

> "Our question is – are apprenticeships being driven in the right way? Are organisations really looking to the skills and competencies that need to be developed in their staff?

Ongoing Chartered Banker status is subject to adherence to the Chartered Banker Institute's rules and regulations, including the Code of Conduct, and completion of annual Continuing Professional Development as appropriate to the membership grade.

Chartered Banker is the gold standard for professionals working in the banking sector and is recognised globally as a measure of enhanced standards of excellence and professionalism.

"At a time when banks and banking are being shaped by new technology, the launch of Cranfield's new MSc, in partnership with Metro Bank and the Chartered Banker Institute, couldn't be more timely," said Simon Thompson, Chief Executive, the Chartered Banker Institute. "Future generations of banking leaders need to develop their professional expertise in a wider range of fields than ever before, including banking, technology, management and leadership."

The new MSc has been designed specifically for banking in the digital age and is one of a new generation of higher and degree apprenticeships for senior professional and senior specialist roles. These mean students can achieve a full Bachelor's or Master's degree as part of their apprenticeship. There is also an appetite, as with Cranfield, for such degrees to be formally recognised by professional bodies, thus allowing holders to gain professional designations and also to access further professional qualifications and continuing professional development. Higher and degree apprenticeships were introduced in 2015 as part of a UK Government drive to create three million apprenticeships by 2020 – and to put employers rather than educators in the driving seat.

Blazing a trail

In the banking sector, the Chartered Banker Institute has been involved in developing 'trailblazer' apprenticeships from stage one.

Mark Roberts, Head of Learning Partnerships Strategy for the Chartered Banker Institute, explains: "Through the industry groups, we've helped the sector shape the standards and identify apprenticeship assessment methods and supporting qualifications. We have supported banks and financial services employers in developing their apprenticeship strategies. As a professional body, we have aligned our qualifications framework where appropriate with apprenticeship standards and work closely with a number of leading training providers."

The Institute has also been appointed as End Point Assessor (EPA), which is the final check that the apprentice has attained the required standards to complete the apprenticeship, for a number of core banking standards.

Looking ahead, the Institute sees apprenticeships as critical to the future of the banking industry and describes itself as a 'enthusiastic supporter'.

Roberts continues: "We see the massive potential that apprenticeships hold both in terms of opportunities for individuals wanting to enter the banking sector and for the banks themselves. But there are also benefits for wider society in terms of driving greater inclusivity in recruitment patterns and offering opportunities at a number of stages in an individual's career. Individuals benefit from a learning experience that combines the best elements of studying a qualification with practical application and experience in the workplace."

Key skills

A number of key skills and competencies are vital to anyone working in a bank.

"Key knowledge areas include regulation of financial services, law, ethical principles, risk management, principles of credit and banking operations management, technology and innovation," Roberts explains. Banking operations isn't just about understanding how banks develop systems to look after people's money, he adds, but it's also the technological angle, principally digital banking and how this can lead to great consumer experience.

"In terms of skill sets, young bankers need to be able to understand and anticipate problems and issues, identify ethical considerations, operate technically complex and innovative customer service systems – and they need to be flexible and welcoming of change and innovation, good with people and authoritative in their knowledge."

The Institute recently published an 'Insights' Paper into apprenticeships in financial services and banking after gathering feedback from stakeholders. Its recommendations include greater consistency across apprenticeships and professional standards and the need for employers to be able to review apprenticeships to ensure they continually meet industry's needs.

"While the pace of apprenticeship development in financial services has been rapid, we do have some concerns," Roberts admits. "Firstly, do the existing apprenticeship standards fully reflect the future needs of the banking industry? Secondly, does the banking sector have adequate strategic overview of the standards? Additionally, there's a potential issue with unintended consequences. A good example of this is a rise in apprentices in the banking sector studying non-industry specific qualifications in general topic areas like customer services and management."

Fit for the future

This concern relates to the UK government's Apprenticeship Levy, through which large companies pay 0.5% of their salary costs into an Apprenticeship Service Account each month. Employers can be reimbursed, but only by setting up apprenticeships with accredited training providers within two years.

"The incentive is you can get your money back as long as you have enough apprenticeships," Roberts continues. "So there's been a bit of a gold rush with businesses encouraged to set up as many apprenticeships as possible.

"Our question is – are apprenticeships being driven in the right way? Are organisations really looking to the skills and competencies that need to be developed in their staff? Or are they following the lowest common denominator route? An example would be the use of generic standards, such as customer services or management, which contain no banking-specific content."

Other significant concerns include the lack of alignment between apprenticeship frameworks across the UK – for example between Scotland and England – and the lack of take-up by universities of degree-level apprenticeships.

"A number of UK universities have considerable specialisms in banking and related financial services subjects at Level 7 and it's a real pity that existing expertise and innovative learning delivery that universities have is not currently reflected as apprenticeship opportunities," Roberts says. For example, we have two UK Universities that have world-renowned programmes in the critical topic of Green and Sustainable Finance, yet current standards are not designed to engage universities holding this expertise.

Another area of support for young bankers is the 2025 Foundation, which the Chartered Banker Institute set up in anticipation of its 150th anniversary in 2025. It aims to identify and assist talented young people who would benefit from financial and other support to start to pursue a career in banking.

In a collaboration with Bangor University, ranked one of world's top 25 institutions for banking research, the Chartered Banker Institute also offers a ground-breaking dual award banking qualification: the Chartered Banker MBA. This enables graduates to gain a top MBA in banking and finance alongside Chartered Banker status.

To find out more, please visit www.charteredbanker.com

Is MiFID II having the desired impact?

Article from **Unicorn Training**. MiFID II brought an overhaul that aimed to increase transparency, reduce costs for investors and clampdown on market misconduct in the financial industry. But is it having the desired impact?

When MiFID II came into force on 3 January 2018, it signalled an enormous piece of project work for those affected. So one year one how are firms getting on in implementing MiFID II and achieving compliance?

It hasn't been simple…

"Firms are still grappling with around 30,000 pages of legislation and what needs to be implemented," Emma Parnell, Learning Designer at Unicorn Training, concedes.

"With other pervasive regulation such as GDPR, the Senior Managers and Certification Regime and now the Fifth Money Laundering Directive all coming into force, that's an awful lot of regulation, but not enough time to do it all. Firms have had to fight fires as they occur.

"We've seen the FCA let firms get on with it in the first year, but now the regulator is starting to peer in and ask how they are getting on and some firms are still having to say to they aren't there yet.

As firms continue to make sense of it all, contention remains around whether MiFID II still has the potential to fully deliver on its objectives.

So what have been the biggest challenges for regulated firms in the first 12 months?

Best Execution

Best execution refers to the duty of an investment services firm executing orders on behalf of customers to ensure the best execution possible for each customer's orders.

Regulators have consistently cited execution quality as fundamental to the integrity of the market, and under MiFID II firms now need to demonstrate they have taken all *sufficient* steps, rather than all *reasonable* steps, to obtain best execution.

Best execution has remained a big challenge for firms, many of which have struggled with the vast and complex requirements. Some firms have opted to stand on the sidelines until there is greater clarity from the regulator and broader implementation by their peers.

In a recent survey of 100 capital markets firms earlier this year across the UK and Europe, almost a third (29 per cent) cited best execution as their biggest MiFID II challenge.

Transparency (Trade and Transaction reporting)

MiFID II aims to achieve transparency through increased regulatory reporting, looking at what trades and transactions are taking place and matching them up.

But current analysis of MiFID II's impact on transparency have been mixed. Conflicts have arisen between what is the best deal for the firm and for the client. Meanwhile, some clients need better information about how the firm they have hired is conducting business on their behalf, so if they aren't satisfied they have enough information to complain.

Data Quality

The objectives of MiFID II can only be accomplished once the relevant data from trading venues are consistently complete and correct. With quality data it is possible to clearly see liquidity in the markets, providing comfort that markets are working adequately and the ability to conclude whether a market is stable or at risk.

But over the past year, it is clear firms are trying to get their head around this issue. In fact, back in October, the European Securities and Markets Authority (ESMA), the body that looks at the completeness and availability of transactions and trades, announced it was unsatisfied with the quality of data under MiFID II.

Where are we heading?

If one thing is for sure, it's that under MiFID II, compliance is an evolving process not a one-off event. In the coming weeks, months and years MiFID II will remain an ongoing challenge for firms and strategic and operational flexibility will be needed if they are to flourish.

There remain a number of areas of uncertainty and still subject to debate. What remains for the regulation in a post-Brexit world? Will the regulator finally begin to crack down on non-compliance?

MiFID II absolutely has the potential to have a significant and positive impact on the industry in many ways. Collaborative partnerships, innovation and further guidance from regulators are critical to this impact becoming a reality.

The FCA has already stated that as long as it can see genuine attempts from firms taking action to be compliant, it will work alongside them, rather than punish them.

What can firms do?

The sorts of questions firms were asking themselves a year ago, they should be revisiting now, and the most pressing question of these remains 'How are we training our staff?'

Like GDPR and SMCR, MiFID II is about changing cultures and affecting behaviours to bring about better outcomes for customers. Good systems will get you so far, but it's people who will keep you compliant.

In autumn 2017, Unicorn Training launched their MiFID II overview and associated updates to CASS, CIOBS and transaction reporting to support firms and staff in understanding the key changes coming in and what their legislative expectations were.

However, there is evidence that although staff might have undertaken the necessary training a year ago, they have not continued to develop themselves.

For T&C, L&D, HR and/or compliance managers tasked with managing staff through the on-going MiFID II minefield, the key is being able to deploy content, monitor, report, automatically assign learning, send email reminders and create role-based pathways to deliver the right learning to the staff that need it.

> "The FCA has already stated that as long as it can see genuine attempts from firms taking action to be compliant, it will work alongside them, rather than punish them

It is about taking a campaign-based approach to learning where a MiFID II topic consists of a series of distinct activities that an individual can fit around their daily tasks when it suits.

For example, a short video to engage them, some microlearning modules focusing on a single outcome, contextual case studies and scenarios to practice applying knowledge in a life-like situation. Then give them a reminder of the key points as the only certainty is, if the learning isn't applied quickly and regularly, it will be forgotten.

Also if your firm is not already a member of the IA, it could really help as they can support firms in identifying gaps, employing the right training and providing insight as to what other firms have done to be successful in the first 12 months.

As MiFID II continues to settle in and uncertainty fades, a more transparent, competitive and trustworthy industry should begin to emerge, with confidence in markets increasing and greater consumer protection.

It is going to take some time to get there, but positivity remains that this legislation will do the job it was brought in to do.

How do we measure 'value for money'?

Julia Kirkland,
Partner in FSTP

"My fear is that Asset Managers, in order to tick the box, could easily slip into producing yet another report, full of jargon

I expect when all of us buy something, we ask ourselves "does this represent value for money?" The definition of value for money will be subjective, maybe you are buying a brand which represents quality and high end, or maybe you are driven to make a purchase purely on price. Regardless it's likely to be a combination of factors in most cases.

Historically we have never really analysed value for money when buying investment products and funds. However going forward, as investors we will receive the fund Board's assessment of "value for money" on an annual basis, as part of the new requirements from the Asset Management Market Study. The new obligation will be implemented in September 2019 and I think it's fair to say that many Assets Managers are scratching their heads on this one.

The FCA has identified 7 areas which are expected to be reviewed and commented upon in the annual assessment;

1. Quality of service
2. Performance
3. AFM costs – general
4. Economies of scale
5. Comparable market rates
6. Comparable Services
7. Classes of units

Firms should notice that there are obviously crossovers between the areas identified for review, principally criteria 4-6 should expand on 3, AFM costs. That said you can't avoid the underlying thrust of the exercise i.e. to review performance against cost and the treatment of different categories of customer.

Explicitly the Board must reference the 7 criteria back into their obligation to operate the fund properly from the Collective Investment Scheme sourcebook rules, but like most guidance from the regulator it is open to interpretation.

Taking a closer look Boards will have to consider, among other things;

- ❏ Services provided by third parties i.e. administration, custody, audit, client experience and collect matrix of data to inform themselves.
- ❏ Benchmarking and whether or not the fund stated objectives are clear enough for clients to know what to expect if they invest.
- ❏ How much and what peer group review should take place.
- ❏ What period of performance should be reviewed and what is the full OCF (ongoing charges figures)
- ❏ Can scale drive economies through the funds and can the fund benefit from these (conversely do Boards need to consider what happens, if diseconomies of scale occurs if the fund size decreases)
- ❏ Is it right that we compare institutional funds and products with retail products?
- ❏ Are we still paying trial commission to cope with post RDR regime on certain share classes? Does this benefit underlying investors i.e. what are the consequences?

I could go on and on. The Investment Association has produced guidance on PS18/8 and they include a timetable of when these publicly available reports should first start appearing, depending upon the accounting period for the individual fund. This is helpful to firms but I suggest not very helpful to potential consumers or current investors. My fear is that Asset Managers, in order to tick the box, could easily slip into producing yet another report, full of jargon containing the information they think is important and miss the point. Boards will have to sit up and take a long hard look at the finished report and ask, "If I am a customer does this help me understand if this fund represents value for money".

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Firm culture in financial services

By **Tony Catt**, Compliance Consultant

Having worked with many different organisations, I have some experience about the different cultures that are operative in IFA firms and networks and larger institutions. The differences can be quite illuminating.

> Leaders can manage culture even if they cannot measure it very well

In preparation for this article, I did a little bit of research to back up my own experiences and perhaps explain why certain cultures prevail.

Culture in financial services is widely accepted as a key root cause of the major conduct failings that have occurred within the industry in recent history. Given its impact, firms' culture is a priority for the FCA. The FCA expects firms to foster cultures which support the spirit of regulation in preventing harm to consumers and markets. These kinds of healthy cultures can also complement and support businesses' financial performance.

The FCA DP18/2 is a collection of 28 essays discussing what a good culture might look like, the role of regulation and regulators, how firms might go beyond incentives, and how to change behaviour for the better.

DP18/2 offers actionable insights for financial services leaders and practitioners to consider how they effect change in their organisations. These include:

- ❏ using behavioural science to guide incentives and cultural change
- ❏ looking beyond the role of leadership in effecting change
- ❏ applying strategic focus to the continuous process for adapting culture
- ❏ fostering environments of trust to encourage openness and learning
- ❏ applying a systems perspective in assessing both internal culture and external influencers

Common corporate culture models can be summarised as follows.

- ❏ **Hierarchical –** an organisational model based on clearly defined corporate levels and structures.
- ❏ **Adhocracies –** emphasise the ability to adapt quickly to changing conditions.
- ❏ **Clan cultures –** a family-like environment that value consensus and commonality of values and goals.
- ❏ **Market cultures –** corporate environments that emphasize competition.

The FCA recognises that each firm's culture is different, and appropriately so. The FCA does not believe there should be a 'one size fits all' culture and does not prescribe what any firm's culture should be (it never does!). However, it has set out minimum standards of behaviour, in the form of 5 Conduct Rules, which sit at the heart of the Senior Managers and Certification Regime (SM&CR, known as the Accountability Regime). The Accountability Regime currently applies to Banks and Insurers but there are plans to extend it all regulated firms by the end of 2019.

Conduct Rules

- ❏ Rule 1: You must act with integrity.
- ❏ Rule 2: You must act with due skill, care and diligence.
- ❏ Rule 3: Acting with due skill, etc as a manager.
- ❏ Rule 4: You must be open and cooperative with the FCA, the PRA and other regulators.
- ❏ Rule 5: You must pay due regard to the interests of customers and treat them fairly.

Personally, I find it sad that these rules need to be set out in regulation; as people should surely be behaving naturally in line with these rules. I guess that has been the problem within financial services over the years that some people do not behave well.

For markets to work and firms to be successful, it is critical that they are seen as trustworthy. Social expectations have changed, and public interest has raised questions of trust in firms, and in the industry as a whole. To increase confidence, firms need to demonstrate they are working in the interests of consumers and the market

So, how can regulation promote healthy culture? Two fundamental concepts underpin FCA thinking about culture and regulation. The first is that regulation has to hold the individual as well as the firm to account. This is why the FCA considers it so important to define the 5 Conduct Rules and have them apply to all financial services individuals in the firm.

The second concept is that leaders can manage culture even if they cannot measure it very well. This is deeply embedded in the Accountability Regime too. The regime aims to hold firms' leadership to account for their own behaviour and for taking reasonable steps to manage the behaviour of those in their areas of responsibility. It also aims to ensure that leaders have clearly articulated what they are accountable for and that key responsibilities neither slip through the cracks nor end up too diffused. It provides a robust framework for a culture of accountability, bringing much needed clarity to the accountability of all individuals and a focus on behaviour that goes beyond simply complying with the rules.

I saw a statement that culture in an organisation is "how people behave when the boss is not looking". The Accountability Regime seeks to enforce this by making individuals accountably for their own actions and also the actions of those people who report to them. The accountability focuses the mind. Although, it is a negative thought that if they were not accountable, they would behave differently.

Organisations do need to be led from the front by their owners or senior staff. Richard Branson once said, "Train people well enough so they can leave, treat them well enough so they don't want to." I did some work with a firm last year that did not run training for their staff because their staff did not stay at the firm very long. They had a high turnover of staff and blamed it on people being offered jobs elsewhere that paid more. Two things there – treat them better and/or pay them more. More people leave jobs because of bad management.

Richard Branson also said, "I have always believed that the way you treat your employees is the way they will treat your customers, and that people flourish when they are praised." Again, this promotes a positive culture that will lead to good customer experiences and lead to good customer outcomes.

The Accountability Regime is the widest ranging attempt by the FCA to lead financial services towards becoming trusted by consumers.

The Retail Distribution Review (RDR) was put into place on 31st December 2012. The ultimate goal of RDR was to ensure more transparency in the investment industry; improve services through higher qualifications; and ensure investors understood the true cost of advice and trust they were receiving unbiased information. This had the effect of raising the bar of expertise and qualification of advisers. This should have led to better customer outcomes.

The Insurance Distribution Directive was directed at General Insurers to bring their standards closer to financial advisers by bringing in new training requirements and greater clarity of documentation. Again, to promote good outcomes for customers.

The Markets in Financial Instruments Directive (MiFID) II is a legislative framework instituted by the European Union to regulate financial markets in the bloc and improve protections for investors with the aim of restoring confidence in the industry after the financial crisis exposed weaknesses in the system. This brought the standard of advice throughout Europe in line with the standards in the UK. This also has been directed at providers to review their products to ensure appropriateness and suitability for their target market and ensure clarity of paperwork to improve customer outcomes.

So, having looked at advisers and products, the Accountability Regime is dealing with the structure, duties and responsibilities within firms. It is already in place within the banks and is being rolled out to all firms later this year.

It will be interesting to see how the Accountability Regime will improve customer outcomes. But it probably will have some effect by making people personally responsible and accountable and open to sanction. Time will tell.

Strategies for improving the quality of compliance assessments

By **Vivek Dodd** from Skillcast

Assessments are critical components of corporate compliance programmes. They are used to evidence employee awareness and competence to internal stakeholders and regulators. They can also be used for pre-testing, personalising the training, and improving the training content over time.

In this article, we explore some of the strategies that Skillcast uses to create robust, high-quality assessments for corporate compliance programmes. These are useful for learning developers, trainers and subject matter experts (SMEs) in planning online and in-person evaluations.

> "However, compliance assessments should be more about testing "how employees will act" than about "what they know

Testing beyond comprehension and knowledge-recall

Most compliance assessments rely on multiple choice questions (MCQs). Despite their shortcomings, MCQs are easy to write and replicate to create variants, and easy to score and collate into aggregate statistics. However, testing knowledge and competence with a good degree of reliability (i.e. the reliability with which the MCQ tests competence) requires writing questions of high quality, consistency and level that is fit for purpose.

Testing comprehension and recall of factual knowledge, e.g. types of fire extinguishers or penalties for fraud, may be possible with simple MCQs. However, compliance assessments should be more about testing "how employees will act" than about "what they know". For this reason, compliance assessments should feature scenario-based questions where employees are required to analyse, critique and make decisions.

A typical scenario-based question starts with a case statement or vignette that can include a detailed background and even a separate document that the employee must study. It can also include a realistic dialogue between the protagonists (in plain text or video format) that the employee is required to consider.

The vignette can serve as the basis for asking one or more MCQs, each with its question stem and response choices. These choices should be written as decisions or critiques that the employee is asked to make.

Writing and quality testing such scenario-based questions can be time-consuming and expensive, but this can be offset by creating variants of the questions for randomisation.

Best practice for writing multiple choice questions

- ❏ Each question must be related to a learning objective in the course
- ❏ The question stem should state clearly the problem and only test a single idea
- ❏ The details of the scenario should be kept in the question stem, and the response choices should be kept short
- ❏ The distractors must be plausible, but the correct choice should be unambiguously the best answer
- ❏ The distractors should incorporate common compliance errors that people are known to make
- ❏ The length of the response choices should be similar - if the correct choice is longer than the distractors in some questions, it must be shorter in others
- ❏ All response choices, correct choice and distractors alike, should follow on grammatically and logically from the question stem
- ❏ The question stem should be worded positively - if it's necessary to use a negative word like "not", it must be underlined or capitalised
- ❏ There should be no double negatives, e.g. a question stem featuring a "not" or "except" and one or more choices also featuring a negative
- ❏ "All of the above" and "None of the above" should be avoided
- ❏ The position of the correct choice should vary randomly (in online assessments the options can be jumbled each time the question is asked)
- ❏ The language should not use humour or colloquial terms that leave non-native speakers at a disadvantage

Structured assessments

Compliance assessments typically consist of a bank of MCQs from which a certain number are randomly selected for each test. The size of the question bank varies, but a 3:1 ratio (e.g. a bank of 30 questions for an assessment where 10 questions are asked) is generally considered to be sufficient.

However, this random sampling approach is flawed and results in a low degree of reliability. When questions are picked from a single pool, there is a risk of the test including multiple questions on certain topics and no questions on other topics covered in the course. Moreover, since the questions on some topics are likely to be less difficult than others, the overall difficulty of each test will vary.

The best approach for addressing this shortcoming is to structure the assessment into multiple question bank - each of which aligns with a single action point that we want to achieve in the course. Action points are analogous to learning objectives but distinct. Whereas the learning objectives list what employees will learn, the action points list what the company wants them to do (or not do) after being trained.

The MCQs (preferably scenario-based) in a given question bank must test only the corresponding action point and are of the same level of difficulty. The test is then composed by randomly selecting a set number of questions (preferably one) from each question banks. This ensures that each instance of the assessment test is consistent and each employee is tested on all the points that are important for compliance.

Multiple true false questions

True false questions are regarded as being inferior to multiple choice questions. This is unjustified as numerous research studies have shown that the reliability score of multiple true false (MTF) questions is higher than that of MCQs.

An MTF consists of single vignette with a question stem followed several items, each of which the employee must evaluate as true or false. The items may be presented together or one at a time - the latter is better accessibility if the assessment is online.

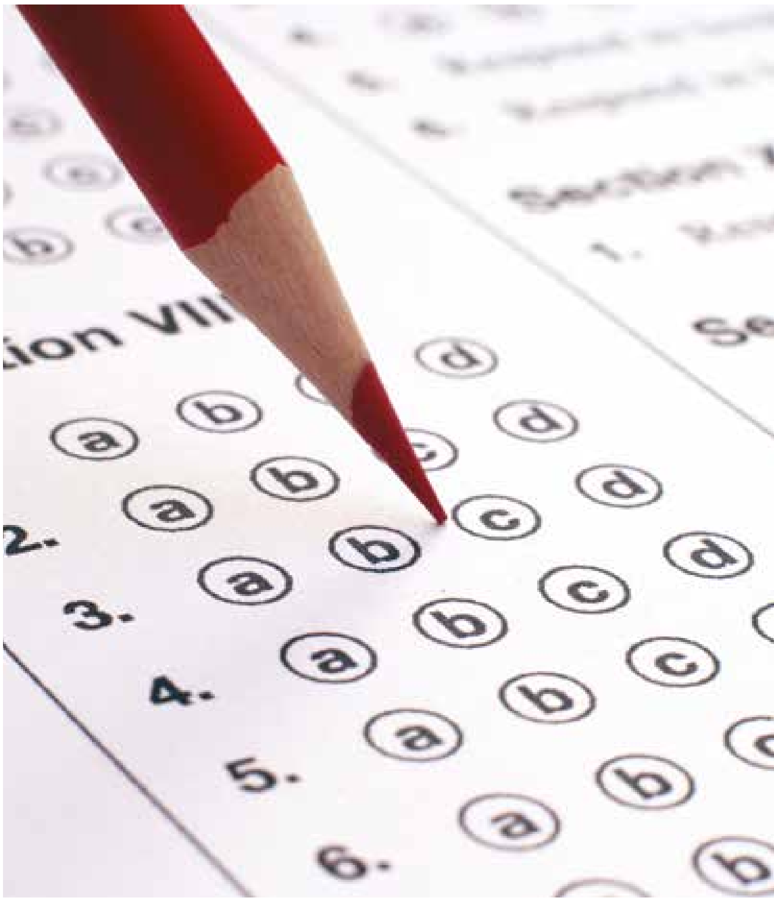
To compare the MTF format with MCQ, consider the example of a course on Bribery Prevention. Let's assume that this course has five action points and an assessment with two MCQs for each action point. Take one of these action points - say related gifts and hospitality procedures in the company. This would be tested with two MCQs with four response choices. The probability of an employee with no competency being able to select the correct answer randomly is 25% (the probably would be higher if the employee had partial understand to eliminate one or more of the distractors). So the probability of this employee answering both questions correctly is 6.25%.

Extrapolating this, if there were 1,000 employees in the company with poor or no competency of gifts and hospitality procedures, 62 of them would pass the assessment on this action point nevertheless.

This level of false positive error may be tolerable if the assessment comes after the course and if the purpose of the intervention is to raise employee awareness rather than assess employee competence. However, it would be intolerable if the assessment was being used for pre-testing. The purpose of pre-testing is to enable employees who demonstrate competence on an action point to skip parts or the whole of the training content related to that action point. For companies to fulfil their compliance training obligations, they need to be able to demonstrate that the pre-test is robust.

In the above example with a 6.25% false positive error rate, 62 out of every 1000 employee with insufficient competency would be to skip the content on gifts and hospitality procedures via a pre-test compose of two MCQs on this point.

To reduce this false positive error rate, we use the MTF format. Each MCQ with four options can be replaced with MTF with three, or even four items, with no appreciable difference in the assessment duration or user experience. The probability of the employee with no competency being able to score any item correctly is 50%, and that of scoring the two MTFs with three items each is 1.56% (the probability falls to 0.4% if the MTFs have four items each). This four-fold reduction in the false positive error rate makes MTF the format of choice for pre-testing.



Learner confidence

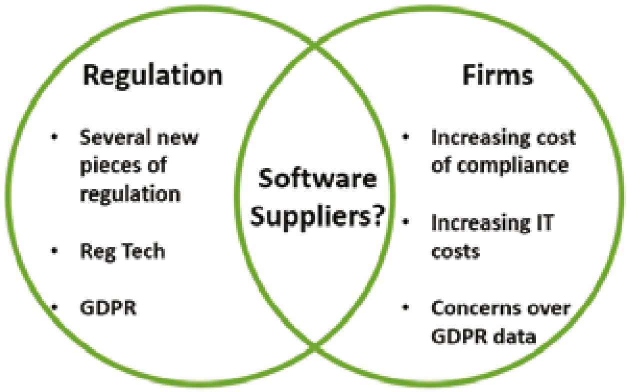
To reduce false positive errors further, we take a gamification approach to pre-testing, in which the employees are invited to play a game for points (and optionally compete for places on a corporate leaderboard). In this game, we can allow the employee to bet on their answer to some or all questions to earn additional points.

The game dynamics can be fine-tuned with a variety of settings including negative marking and the value of the bet. Irrespective of the points, this format of pre-testing adds a valuable new dimension - the confidence that each employee has in their responses. Using this confidence level alongside the MTF score can drive down false negative error and improve the reliability of the testing.

Which regulatory software suppliers should firms trust?

By **Andy Nightingale**, Managing Director, from Worksmart Limited

Extensive change has been happening and continues to happen in the world of compliance. Major new regulation has been 'landing' for several years now and with SM&CR, the regulatory net is spreading wider than ever by the end of 2019. As firms adapt their business models and compliance teams race to align their processes in line with these regulatory demands and business model changes there has been quiet, but equally powerful, change in the demands asked of firms supplying regulatory software to UK financial services. However, before I expand on these changes, let me explain a little bit more these regulatory pressures.



The market challenges

The regulatory change has increasingly been introduced over the last few years, starting with Mortgage Credit Directive (March 2016), Markets in Financial Instruments Directive II (MiFID II, January 2018) and Insurance Distribution Directive (IDD, October 2018). Running through this has been the Senior Manager & Certification Regime (SM&CR) regulation which came into force for banks in March 2016 and Insurers from December 2018, it will be extended across financial services later this year (December 2019). This has not only caused firms to review and adjust their business models several times over, inevitably it has increased the level and cost of the additional compliance oversight. Running alongside all this has been the General Data Protection Regulation (GDPR - May 2018). GDPR may not have had quite the same impact as the other regulation on compliance, but it has had a major impact on their IT teams as they work out the practical impact of the GDPR regulation and their responsibilities regarding the information they hold, their relationship to that information, (i.e. data owner versus data processor), and adjust their management of the information in line with the new rules. Not exactly headline news, but GDPR has had a significant impact on IT in the last eighteen months. Alongside this the FCA, aware of the increasing cost of compliance, has been focusing on and promoting Reg Tech (a new field in financial services which utilises information technology to enhance regulatory processes and reporting). The vision is that managing regulation and reporting on performance against that regulation should harness technology to simplify and reduce the cost of compliance.

Combined, these regulatory changes and the aspirations of Reg Tech ask serious questions for the firms providing regulatory software.

Software suppliers' ability to recognise these challenges and come up with clear and cost-effective answers will define which suppliers financial services organisations should partner with over the next few years.

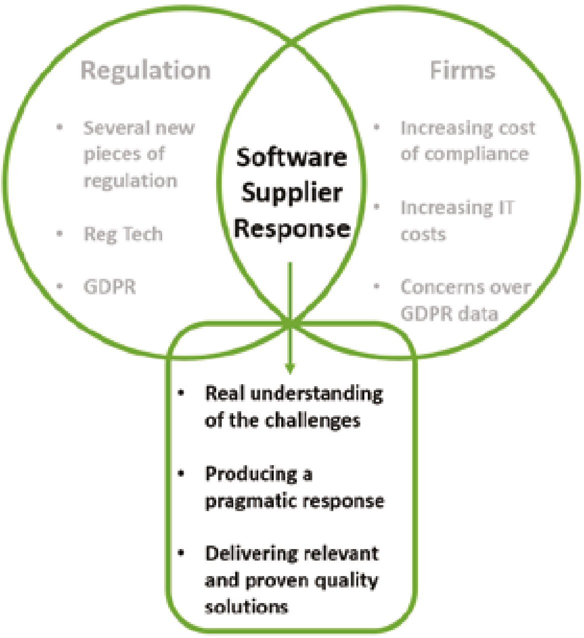
Software supplier's responses

In a competitive market, software suppliers have no choice but to 'front up' to these challenges. But what differentiates the average from market leading suppliers are three things; the understanding of these challenges, the commitment to producing a pragmatic response and the quality of solution in overcoming these challenges. Taking each in turn;

Understanding the challenges

It is easy for software suppliers to read the new regulation, make their own interpretations of what these rules mean in practice and adapt their products and functionality accordingly. The real challenge is to go far deeper and actively engage with both customers and trade bodies to understand how different financial services firms are interpreting the new rules and the challenges it's creating for them specifically. All firms have different operating models, different mixes of IT systems, different compliance and IT standards and so on. Good software suppliers need to demonstrate a true, empathetic understanding and be brave enough to challenge through real practical experience, asking the questions and be ready to accept the multiplicity of answers they will inevitably get back.

This is particularly the case in a post GDPR world as organisations, faced with rising internal IT costs, are increasingly attracted to cloud based regulatory software solutions. However, with this increased level of interest, software suppliers are faced with increasing expectations as they must take on the responsibilities of data processors. As a result, suppliers face an increasing level of scrutiny about their cloud/hosting capabilities and their own internal processes, standards and controls. Long gone are the days of ‘install it on the customer’s site and walk away’! That is why it’s not about the software product anymore. Firms buying regulatory software are now interested in the solution and, as such, are as interested in things like the management team, regulatory understanding and expertise, implementation experience, product roadmap and infrastructure security and standards.



> “The real challenge is to go far deeper and actively engage with both customers and trade bodies to understand how different financial services firms are interpreting the new rules and the challenges it’s creating for them specifically

Producing a pragmatic, ‘whole supplier’ response

If software suppliers think deeply about these market driven challenges, it will inevitably lead to challenging themselves on a regular basis. These internal challenges will range from the quality of their regulatory expertise, i.e. ‘do we really understand what the regulation is trying to achieve?’, their products, i.e. ‘are we delivering intuitive functionality underpinned by the latest, industry standard technology?’ and, finally, their infrastructure, i.e. ‘are our data hosting and internal security processes meeting the highest standards?’

Inevitably, these challenges will cause tension internally however the best software suppliers understand these challenges cannot be ducked and that these tensions are the signs of the reinvention necessary to stay at the front of the industry in support of their customers. Whilst tough, the prize for software suppliers is greater trust from customers gained through a demonstration of holistic understanding of their specific challenges resulting in a willingness to listen to suppliers’ suggestions for innovative ways to deliver the regulatory compliance customers need in a frictionless, almost incidental, way.

Relevant and Proven Solution

And, at its simplest level, when launching new products and delivering product upgrades, continual focus needs to be given to;

- ❏ True practical understanding of what the software must actually deliver in very real and practical terms.
- ❏ ‘Ease of use’ i.e. the software must be easy to use for every type of end user, e.g. employee, line manager, central team and senior manager. Importantly, the software must be sufficiently intuitive that it can be navigated by end users even if they only log into the software on an occasional basis.
- ❏ Operational dashboards, i.e. management oversight at the ‘touch of a button’ plus simple drill down to case / incident level.
- ❏ Regulatory reporting, i.e. producing exactly what the regulator requires in a single click.

Finally, all this needs to be done whilst keeping the price at an attractive level to potential purchasers!

Moving forward

Make no mistake, these factors pose real challenges for software suppliers in the ‘regulatory space’. However, I am in no doubt that the quality of the response to these challenges will separate the good, and ultimately, successful software suppliers from the ‘also-rans’.

To succeed, suppliers will need to take a long-term view, to develop their relationships with customers and trade bodies as much as their product and be prepared to invest heavily in their infrastructure, their internal processes and, last but not least, their people.

As Bill Shankly, the famous Liverpool FC manager fifty years ago, once said; ‘this is a marathon, and you can’t sprint marathons’. Success will be an accumulation of thousands of small things over a sustained period of time.

In my view, that is what financial services firms should look for in their regulatory software suppliers.

Maximising the Apprenticeship Levy

By **Fiona Macaskill,** Head of Learning & Development from the Credit Services Association

It is now almost two years on from the introduction of the Apprenticeship Levy, and a year since the CSA was approved on the Register of Apprenticeship Training Providers (RoATP). As such, we have a privileged position in being able to comment on the success of the Apprenticeship Levy to date, and in looking forward to what the future holds.

Despite mixed messages from the Government, and excitable headlines in the press, the Levy has already resulted in a number of real success stories.

We now have our first cohorts of apprentices coming towards their End Point Assessment and we're delighted with the progress our learners have made and the commitment their employers have shown, with some coming back to start new programmes already.

Over the past two years we've worked with such prestigious institutions as the Bank of England and built strong partnerships with Professional Bodies including the Chartered Institute of Credit Management, the International Compliance Association and the Chartered Trading Standards Institute, to enable us to deliver collections, compliance and risk apprenticeships to the wider financial services sector and compliance and regulatory sector.

Key developments

A key development in the last 12 months has been the introduction of the Level 4 Regulatory Compliance Officer apprenticeship standard, which has seen us working with the Department for Business, Energy and Industrial Strategy (BEIS) to support its progress as it recruits for entirely new roles in regulatory compliance, as well as a large number of Local Authorities and other organisations within and beyond the debt collection sector.

But besides the big names and public sector organisations we're now particularly excited to see many SMEs within our sector (and similar sectors) starting to embrace apprenticeships as a key part of their business growth. Those who have found themselves suddenly hitting £3m on their payroll and therefore qualifying as an Apprenticeship Levy payer are leveraging it to bring in additional funding to strategically invest in people development.

Where some of the larger organisations only ever saw the introduction of the Apprenticeship Levy as yet another tax, these innovative SMEs (which include our member companies such as BW legal, Lantern, Philips & Cohen) are taking a less negative view, and seeing it as a business opportunity. However, we would urge SMEs who aren't currently Levy payers to keep a close eye on their payroll as they grow and encourage them to prepare and hopefully make the most of Levy funds as soon as they do qualify to start paying into it.

For SMEs who don't know where to start, RoATP's such as the CSA can help, drawing on our experience of working with bigger Levy payers to maximise their investment in key areas such as credit control and compliance. We can also advise on how investment in apprenticeships through the Levy fits into your wider Learning & Development strategy as an established provider of specialist training at all levels.

Raising standards

The CSA runs apprenticeship programmes from entry level (e.g. Level 2 Credit Control) through to senior management (eg Level 6 Compliance Risk) across the country and can tailor packages to suit the needs of your business (find out more here). Ultimately, we want to achieve our aim of raising standards and increasing the professionalism of the debt collection profession both within our membership and in wider sectors and the long-term business benefits for SMEs are huge if Levy funds are used effectively.

While some remain sceptical about the role of the Apprenticeship Levy, we have seen first-hand the positive impact it can have on organisations who invest in the right areas with the right training providers and we're excited to see this develop further over the next year as more and more SMEs grow and become Levy payers.

> "A key development in the last 12 months has been the introduction of the Level 4 Regulatory Compliance Officer apprenticeship standard

There are those who only ever see the world as a glass half empty; taking a more positive, half-full approach to the Apprenticeship Levy can have proven benefit to your employees and your business.

If Pep Guardiola did feedback…

By **Ian Patterson** from The Patterson Group

If you were passing your manager's office and they said "do you have a moment, I've got some feedback for you", how would you feel? Not great eh? That's probably because people's experience of feedback is so poor. In many ways it should be a straightforward skill, but clearly from the workshops I've run over 25 years, effective feedback is not that common in the workplace.

"What we will agree on is that providing feedback, as a process, can be made more effective if a structure is followed.

This point is reinforced by much of the research looking into employee engagement. A survey by the pollsters Gallup shows that employee engagement in the UK has been steadily declining since 2012. The figures suggest that the percentage of British full-time workers who consider themselves to be 'engaged at work' is an alarming 8%. 73% are classed as 'not engaged' and 19% are classed as 'actively disengaged'. Taking a national perspective, this places the UK 9th out of twelve developed countries.[1]

Clearly there are a wide range of factors that come into play when we are talking about employee engagement. But you'd have to be pretty brave (and ignore much of the other research) to say that the relationship between employees and their manager isn't near the top of the list of factors that contribute to this. I would argue that ineffective feedback and related skills - such as poor listening and telling rather than asking questions – contributes hugely to the problem.

Now, back to Pep Guardiola. I'll fess up and say I don't know him personally. But as he is probably the best football coach in the world, I'd like to think that fantastic people-management skills are one of the reasons why he is a successful football manager. So where effective feedback is concerned, let me try and think like Pep would and explore what these might look like.

Have a process

Most of you will have heard of the 'feedback sandwich' or 'kiss-kick-kiss' approaches to providing feedback. They are well-known and some aspects – such as providing a balance of good stuff and bad stuff – should feature within effective feedback. That said, surely there must be a better way of providing feedback than these.

What we will agree on is that providing feedback, as a process, can be made more effective if a structure is followed. This can be abridged for simple and straightforward feedback especially where the relationship between the parties is strong. But if the feedback could be sensitive or the relationship isn't strong, then here are the four main stages of providing feedback that I'd like to think that Pep would recommend. It could be used in any people-management scenario but for the examples, I'll work on the basis that this is feedback between a supervisor and adviser after observing a client meeting.

1. **Confirm the purpose of feedback.** At the start of the feedback session, it would be sensible to just check that both people understand the purpose of the meeting and what is expected from each party. This should also include the expected duration of the meeting which is likely to be no more than 5 -10 minutes.
   Tip: Ask the adviser what they would like to get from the meeting (or what their agenda is). This encourages them to contribute to the agenda and increases their buy-in. Give it a try, you'll be surprised just how shocked they are when asked!

2. **Encourage the individual to self-assess.** This enables the supervisor to establish not only the adviser's recollection of events, but also perhaps some understanding behind the reasons for it. Self-assessment also gives the supervisor

1 https://news.gallup.com/opinion/gallup/219947/weak-workplace-cultures-help-explain-productivity-woes.aspx

something to build their own feedback on, especially if the adviser recognises some negative points. It is always preferable to build on negative points that have been raised by the individual and to then focus on possible solutions.
Tip: Get the adviser talking first. Ask questions like: "what do you think were your three strengths?" and "if you were to do it again, what would you do differently?". Don't be afraid to ask follow–up questions to probe. Remember, this is their time to talk, so listen.

Multiple realities

Often, what is reality is subject to debate as people will view and interpret information in different ways. For example, have you ever left a meeting where some attendees thought it was very useful whilst others thought it was a waste of time?! In other words, don't just assume that because you saw something, the other person saw it the same way.

By asking the individual to self-appraise prior to providing your own observations, you can establish the individual's view of the event.

3. **Provide your observations.** In this stage, the supervisor can provide input into the discussion by stating what they observed. If the previous stage has gone well, this might simply be a case of agreeing with relevant areas raised by the adviser and ensuring any outstanding important areas are raised. To be effective, this should be specific and preferably refer to actual quotes or examples from what was observed. It is important to stick to facts and not offer opinions, which may be subjective and open to disagreement.
   Tip: Describe what you heard or saw, e.g. "what I heard you say…." or "when you said xyz, I noticed that the client…". If you describe rather than judge, you can raise even quite sensitive areas without the adviser necessarily becoming defensive.
4. **Plan and agree next steps.** Effective feedback isn't about just having a nice conversation. The positives need to be reinforced and any development areas need to be worked on. The adviser should be encouraged to identify not only the development areas that need to be addressed as a priority, but also the potential solutions. The agreed action needs to be documented along with the time scale and responsibility for future action agreed.
   Tip: This is the point where supervisors often go into 'tell mode' because the focus is now on finding appropriate solutions. Don't, unless the adviser is genuinely struggling to know what to do next. Instead, ask questions like "what do you see as the key priority?" and "what's the best way to take that forward?". The adviser will only do any future actions if they buy-in to the process (which is unlikely if they're told what to do).

General rules on feedback

Here are 7 quick general tips to make your feedback effective:

❑ People are more responsive when they are put at ease. Try and both start and finish feedback on a positive note.

❑ Be genuine and sincere. Giving difficult feedback is not easy for most people – acknowledge this and be honest, e.g. "This feels a little awkward….". If people see you genuinely looking to help, they will be more receptive and it will help to develop trust.

❑ Avoid directing the individual if possible - ask them to consider options or alternatives. By doing this, they are more likely to take ownership of the resulting actions. The employee – not the manager – should be talking 70% of the time.

❑ Be as positive as possible. Offer justifiable praise but don't fudge the issue if a problem is identified that needs to be addressed. Be sensitive and focus on the upside of the resultant action.

❑ Provide feedback soon after an event so that the detail is fresh in the mind.

❑ Avoid being personal or judgmental.

❑ Try and identify 'quick wins' especially where a change in behaviour may take some time.

Whether you are a line manager of a 'certification function', a supervisor of advisers or – like Pep, manage a high-performing team – feedback is just one of those skills that any people-manager needs to get right. Is it the most important people-manager skill? Probably….

For the love of Facebook…

By **Jane Pitt** from RedTree Training

Look through any LinkedIn news feed and you can read about someone's struggles and how they managed to change their life or someone thanking another for 'a great job /training course / product / suit fitting (I kid you not!)' or how this learning / product / person can really change your life. I'm rather partial to a scroll through LinkedIn when I have five minutes to spare. Look through any news feed and you can learn so much about an individual. Typically, by this time of year, the annual appraisal has been completed. Whilst appraisals are meant to motivate employees by realigning business and personal objectives, many can find that they can be left feeling a little aggrieved for one reason or another. Sharing a quote with the world about your level of motivation or worse still, your feelings towards your boss, may seem like an attractive proposition but let's consider some alternative activities you may want to try before you click 'post'.

Resilience is the ability to bounce back from a tough time. From our earliest history, and across all cultures, the quality of resilience has been admired. The heroes in fairy tales and legends have an abundance of it – appearing at their best when most ruthlessly challenged.

In science, resilience describes the process by which objects revert back to their original shape after being stretched or bent. In medicine, it refers to the ability of a patient to recover from injury or illness. For patients, this resilience may reflect differences in basic anatomy but also reflects aspects of personality such as strength of will or optimism. Patients will often have to change their behaviour to overcome illness.

Overtime it has been recognised that some people are less fazed by setbacks than others, clearly showing better resilience for whatever life throws at them. Such people are also able to recast their objectives, even reinvent themselves, according to the demands of the environment. Whilst it is easy to assume that some people appear to have an inherent abundance of resilience, it is more likely that they have experienced significant events during their younger years that have contributed to it. As we grow older, our resilience level tends to increase naturally as we have had more experiences and challenges that we have overcome. But there are also some things we can do to nurture and increase it.

- ❑ Enhance your self- worth – this is a core attribute of resilient people. Use 'reframing' to help you to take control. Appraisals have a bad habit of leaving us focused on our documented failures rather than the achievements. Once you learn to accept that any failure is a part of learning it is easier to embrace or 'reframe'. Get into the routine of thinking about what you have learnt each day, what lessons can be drawn from every experience and how can you use them to strengthen your 'learning muscle'.
- ❑ Deal with any conflict – it is essential to acknowledge and face up to any differences. Sulking is unacceptable in the work environment. Behave appropriately and treat each situation individually. If you reach out to others to help you resolve your differences, you should have a clear idea of who would be the best person to turn to in a particular situation, and what you want them to do to help you. Remember, this is about solving the problem, and not racking up 'support' through the number of likes and comments.
- ❑ Become more optimistic – Resilient people do not waste time on the impossible but know what is achievable and work towards it. Optimism is about looking on the bright side, to have confidence in your own ability to sort out issues and salvage what can be salvaged from problematic situations. Create your own vision of what success looks like; one that is achievable but vibrant and rounded. Being unsuccessful in an application for a new role can be soul destroying. But if you look to see what can be salvaged from the experience, you may find it gives you time to develop and hone other skills that you would have had to neglect if you'd been successful.
- ❑ 'Build out' a list of things that make you feel good about yourself – When we are feeling deflated, it is often easier to focus on negative words, emotions or disappointment. To help bring you back to a positive frame of mind, make a list of the things that make you feel good about yourself. Make the list as broad and robust as you can, and try not to compare yourself with other people. This can include examples of how you overcame challenges in the past. Remind yourself of this list from time to time and silently praise yourself when you do something well.
- ❑ 'Be yourself because everyone else is taken' – whatever action you take, stay true to yourself and your values; remain authentic. You may take inspiration and guidance from others but also refer back to ask yourself if this action or activity is consistent with your values.
- ❑ In training, we look for the change in a person's behaviour to measure the success of the learning.

Resilience is about changing your behaviour to overcome problems; it is about what you can do to bounce back and move forward to achieve success – whatever your success looks like. Next time you are tempted to post a GIF to express your feelings about a colleague, however tempting, think 'is this how I want someone to remember me?' Instead, think about what activities you can do to change your behaviour rather than potentially exacerbate it. Remember, people like me are everywhere, finding five minutes to read a news feed and learn about you. If this is your opportunity to introduce yourself to me and get me interested in what you do, is this really the view of you, that you want me to see? I know I'd rather be seen being resilient than emotional – although I do like being emotionally intelligent – but that's a subject for another day!

Training trainers

Ian Jerrum from Searchlight Insurance Training

"The key to making knowledge stick is getting participants to apply their learning in practical ways during a session

Not that we're trying to do ourselves out of a job or anything, but one of the things on which my company Searchlight offers training is how to deliver training. Train the trainer courses are one of the more popular 'soft skills' workshops we offer.

In practice, their main purpose is not to launch individuals on a full-time career as a trainer. It's typically more about equipping knowledgeable people with the skills they need to share their knowledge effectively with others.

All too often in the world of business, individuals are asked to pass on skills or expertise without a basic understanding of the best way to pass on what they know. It's inefficient, and it's unrewarding for everyone concerned.

A one-day train the trainer workshop can be all it takes to equip someone with the basic understanding they need to communicate knowledge or skills professionally, effectively and confidently.

As with many things in life, preparation makes all the difference when it comes to training. That's why the first thing we impress on would-be trainers is the importance of working out in advance exactly what they'll be communicating – and how they'll be doing it.

It's essential to be clear about both what learners are expecting from the training and the overall objectives of the exercise. This might involve conducting some kind of training needs analysis (which we obviously cover in our workshops) to identify what trainees do and don't already know.

Starting with a clearly mapped-out plan including approximate timings, helps keep training delivery on course. It also highlights what resources or materials a trainer is likely to need, whether that's handouts, props, whiteboards, or audiovisual equipment.

When we train would-be trainers, we always emphasise the importance of basic logistics. Not having the right environment or resources can throw a training session completely off course. Wherever possible, dry runs are advisable.

We also emphasise that trainers need to be prepared to cope with obstacles to learning which might not normally become apparent until a session's underway. How will they deal with disruptive or inattentive learners – or with individuals who may push back if they already know something about the topics covered?

Different people learn in different ways. So trainers will typically need to vary their style of training during a session, to keep all participants engaged and motivated. It's also important to understand how to adapt delivery for different groups and different training formats.

The key to making knowledge stick is getting participants to apply their learning in practical ways during a session. We teach techniques such as mini-breakouts and roleplay to bring topics to life and make learning more sticky.

It's a quirk of human nature that we retain information we've correctly recalled in front of others better than information we've got wrong or not known. So setting participants up to provide a correct response helps embed what they're learning.

As well as keeping participants engaged and alert, it's important to verify understanding before moving on – and then at the end of a session (or afterwards) to assess how much has really sunk in. Establishing benchmarks in advance makes testing meaningful.

In our train the trainer workshops we take an exhaustively practical approach, looking in detail at everything from sourcing and developing content and resources, to room layout, types of equipment, and motivational techniques.

There's a vast hinterland of theoretical material on the right and wrong ways to train, and we cover some of this as well. But the key thing we hope people take away from our train the trainer sessions is a broad appreciation of the practical considerations and the confidence they'll need to lead a training session.

INDUSTRY NEWS

CISI and Chartered Banker Institute welcome the FCA's new requirement for individual members to include their Professional body membership in its new Directory

Two leading financial services professional bodies welcome the FCA's policy statement (19/7) which concludes its discussion on the creation of a new Directory.

The CISI has long argued that the decision two years ago to abolish the original FCA register was a backward step and detrimental to the consumer.

This view was strongly shared by the profession and as a result, the CISI joined with another accredited body, the Chartered Banker Institute to create an alternative Directory, whilst as the same time urging the FCA to modernise their register rather than abolish it. An early request from the profession for any future directory was to record a member's professional body affiliation and level of membership.

Therefore, both Institutes are delighted that the FCA have listened to feedback from their consultation about the new Directory and included (field 16) a requirement for relevant individuals to list their professional affiliation.

However, the CISI is disappointed that the FCA will not require an individual to specify their level of membership, as this is a good proxy for the individual's level of standing and experience in the sector.

Both Institutes disagree with the FCA's argument that the reason they did not do so was that there were too many variable levels of membership within the six accredited bodies.

FCA fines The Carphone Warehouse over £29m for insurance mis-selling

The Financial Conduct Authority (FCA) has fined The Carphone Warehouse £29,107,600 for failings that led to the mis-selling of 'Geek Squad', a mobile phone insurance and technical support product. This follows an FCA investigation which stemmed from whistleblowing reports.

The FCA found The Carphone Warehouse failed to give its sales consultants the right training to give suitable advice to customers purchasing Geek Squad. In particular, sales consultants were not trained adequately to assess a customer's needs to determine whether Geek Squad was suitable. They were trained to recommend Geek Squad to customers who already had cover, for example through their home insurance or bank accounts.

During the period under investigation (1 December 2008 to 30 June 2015), The Carphone Warehouse made regulated sales of Geek Squad policies worth over £444.7 million. A high proportion of these policies were subsequently cancelled early. For example, in January 2014, 35% of policies were cancelled within the first 3 months from inception. High cancellation rates are an indicator of a risk of mis-selling which The Carphone Warehouse failed to properly consider.

Mark Steward, executive director of Enforcement and Market Oversight at the FCA, said:

'The Carphone Warehouse and its staff persuaded customers to purchase the Geek Squad product which in some cases had little to no value because the customer already had insurance cover. The high-level of cancellations should have been a clear indicator to the management of mis-selling.'

'Without whistleblowers coming forward these practices may never have come to light. In the past few years, whistleblowers have contributed critical intelligence to the enforcement actions we have taken against firms and individuals.'

The Carphone Warehouse sales staff were trained in 'spin selling', where the focus was on persuading customers to purchase Geek Squad and on selling the features of the product. No training was provided on how to respond when customers gave answers indicating the policy may not be appropriate. Sales staff were trained in 'objection handling', with the focus being on overcoming customer objections rather than assessing whether the product was suitable for the customer. Customers who said they might have a similar product or wanted to think about it were advised to purchase Geek Squad and cancel in 14 days. This created a risk that customers would purchase insurance that they did not need and would be exposed to the risk of paying for it if they did not cancel in time.

When customers complained about the sale of Geek Squad, The Carphone Warehouse failed to properly investigate and fairly consider their complaints. This resulted in valid complaints not being upheld in circumstances where the product had been mis-sold. As a result, management did not have an accurate impression of indicators of mis-selling.

The FCA therefore found that The Carphone Warehouse breached Principle 3, Principle 6 and Principle 9 of the FCA's Principles for Businesses between 1 December 2008 and 30 June 2015.

The firm did not dispute the FCA's findings and exercised its right, under the FCA's partly contested case process, to ask the FCA's Regulatory Decisions Committee to assess the appropriate level of sanction. The firm's agreement to accept the FCA's findings meant it qualified for a 30% discount. Otherwise, the FCA would have imposed a financial penalty of £41,582,300.

Claims management becoming FCA regulated – The impact on people's roles

By **Vince Harvey** from Compliance Cubed

It has been estimated that there were about 500 claims management companies (CMCs) when the Access to Justice reforms took effect and the UK saw the introduction of 'no win, no fee'. By 2010 this had risen to around 3,300 and concerns were rising about the complex way in which CMCs charged for their services and the amount of hidden fees and charges.

In April 2013 a ban on referral fees between CMCs, lawyers, insurers and others was introduced and some 1000 CMCs closed their doors. It is felt that those that survived had actively diversified into providing additional services such as vehicle recovery, storage, etc.

In its Spring Budget 2016 the Government announced further change in the transfer of responsibility for regulating the sector from the Ministry of Justice to the FCA on 1st April 2019. The House of Lords debate on the enabling legislation referred to poor outcomes for both consumers and businesses and there was acceptance that there had been an unacceptable fall in standards with a minority acting irresponsibly. One particular issue was the number of claims made which were unsubstantiated.

Andrew Bailey, the CEO of the FCA, has stated "We want CMCs to be trusted providers of high quality, good value services that can truly help consumers. A key element of our approach to regulation will be ensuring that consumers are both protected and treated fairly." Other intended outcomes of the move to FCA regulation were that CMCs would be more stable financially and that as a result there would be better protection for clients' money.

There are six areas of operation covered by FCA regulation of which three are likely to be relevant to TC News readers: personal injury, financial services and employment. (The others are housing disrepair, specified benefits and criminal injuries.) It is worth noting that the employment category includes claims in relation to wages, salaries and claims in relation to wrongful or unfair dismissal, redundancy, discrimination and harassment.

Regulated Activities
Seeking out of claims – seeking out persons who may have a claim
Referrals of claims – referring details of a claim, potential claim or of a potential claimant to another person
Identification of claims – identifying a potential claim, or potential claimant
Advising a claimant or potential claimant – providing advice on a claim or potential claim
Investigating a claim – investigating or commissioning the investigation of the circumstances, merits or foundation of a claim with a view to using the results in pursuing the claim
Representing a claimant – representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made

Three bullet points will illustrate the way in which regulators perceive the sector. The FCA has created rules to require CMCs to:

- avoid making speculative claims
- avoid using misleading advertising
- prevent high pressure selling

Their stated intention is that firms will act with honesty and integrity with an emphasis on getting things right. The FCA's ability to fine firms for breaches or to withdraw authorisation is seen as a means of focusing the attention of CMCs. Regulation combined with the advent of SM&CR later this year should see the senior management of CMCs undertaking a root and branch review of their operations.

Following on from last year's introduction of a cap on fees, the CMC sector is going through a period of significant change. This may cause concern for those working in the sector, particularly around the belief that some firms will withdraw – I understand that only some 519 CMCs have so far registered an interest in continuing to provide their service.

Surviving firms will have to change their procedures and for some their whole business model. Staff will need to be trained in new procedures including the introduction of a document given to customers when they agree a contact containing important information such as estimation of fees, overview of services provided by CMC's, tasks customer will need to undertake themselves and where a statutory ombudsman or compensation scheme exists in relation to the claim, it must also include a statement confirming that the customer is not required to use the CMC to pursue the claim and may present the claim themselves and for free. Positioning this document will require an understanding of the objective so that it is not presented in a negative way which might lead clients not to read it.

Rules requiring regular updates on the progress of customers claims, recording of calls and having a clear and fair complaints policy will need to be implemented with appropriate staff training. Management will also need to understand their responsibility in terms of marketing, meeting prudential requirements, client money segregation, due diligence on lead generators as well as data protection.

While the above covers some specific issues that will impact on people and their roles, the key for the FCA is about how firms set their own culture. Leading from the top, senior management will have a responsibility to ensure that their staff policies from identifying the need for additional staff members, through recruitment and on to monitoring and development all focus on building the skills to deliver good outcomes to their clients.

FCA vulnerability enforcement action; a timely reminder for all regulated firms to re-focus on improving culture within businesses

Nick Baxter from Baxters Business Consultants

> "Firms wishing to improve their response to vulnerability issues need to take steps to raise individual staff skills, knowledge and confidence.

The FCA's recent enforcement action [TR19/1], focusing on customer vulnerability, in the debt management sector should be a 'wake up' call for all regulated firms. Within TR19/1, the FCA recognised that many debt management firms (like many firms in all regulated sectors) meet their standards, treat new and existing customers fairly, and deliver appropriate outcomes. However, now is a good time for all regulated firms to refocus their attention on vulnerable customer policies and procedures. It is not surprising that the regulatory focus of many compliance departments are the rules contained in specific sector 'sourcebooks' (such as CONC in debt management sector), but equal attention should be applied to the Senior Management Arrangements, Systems and Controls handbook [SYSC] and the Principles for Business; not just to avoid regulatory action, but because it is the right thing to do.

Protecting vulnerable customers is an underlining theme in TR19/1 and It seems that firms who were seen by the FCA as failing had two common issues. These can be summed up as leadership and cultural problems. Both point to a break down in the oversight by those covered by the senior manager regime.

Staff in firms often struggle to identify vulnerable customers and struggle with the fact that vulnerability can be transient. They often, therefore, find it easier to satisfy the resource and commercial needs of the business, but such behaviours again point to a failing cultural environment within a business.

Firms who wish to re-focus and improve their treatment of vulnerable customers should also consider the FCA Occasional Paper on Consumer Vulnerability (February 2015); it highlights the risks posed by inflexible services where firms fail or are unable to tailor their services to the needs of vulnerable customers and policy/practice gap at firms, where frontline staff are not aware of or do not implement policies or where frontline staff may not refer people on to specialist teams.

Firms wishing to improve their response to vulnerability issues need to take steps to raise individual staff skills, knowledge and confidence. To do this, all regulated firms need to ensure that policies and procedures translate to all working practices throughout businesses, i.e., culture throughout an entire business must follow the vision behind the instructions. TR19/1 suggests, and these suggestions equally apply beyond debt management firms, that businesses need to re-focus on:

- ❏ identifying and recording a customer's vulnerability, the severity of the vulnerability or multiple vulnerabilities
- ❏ considering how a customer's vulnerability might affect the delivery and suitability of the debt advice and the best interests of the individual customer, and how it might affect the customer's decision making
- ❏ understanding why, when, and how the firm should adapt to meet the individual needs of the customer.

A few courses and a re-focus, however, will not successfully embed the required cultural changes. To make long term positive improvements in the treatment of vulnerable customers firms also need to ensure that quality assurance [QA] tests and measures are fit for purpose, which TR19/1 also identifies. The FCA highlights the need for QA procedures that look beyond single customer interactions and encourages the need for QA systems to take a wider view of the customer relationship.

So, lots to do, but improving outcomes for consumers usually results in improved business performance for firms too.

Nick Baxter is a Partner with Baxters Business Consultants. Baxters Business Consultants is a business consultancy offering training, marketing and expert witness services within the lending industry

"Take a note, Ms Smith"

By **Len Horridge** from the Skills Exchange

We regularly deliver courses on "Notes & Minute Taking" (it's one course, before grammar pedants weigh in but we deliver this one course regularly. We also tailor the standard course for customers, so it may be more than one course. Sorry.)

I find this strange, given the ability of technology to record and transcribe nowadays, and thought that, when I first started doing this course many years ago that once we got close to 2020 then demand would diminish, but it hasn't, it's actually increased. I'm not complaining and I seldom turn down the work (seldom= never). And, anyway, isn't the human element still key to success? (I wonder if that will be true in 2055?)

The "thing" that people want to get from the day, they think, is confidence in taking notes so we focus on three area: listening, grammar and what notes to take. (They lack confidence as most have had note taking dropped on them, probably because they have a pen/pencil and note pad and general air of a note taker.)

Listening, of course, is key to so many things (read previous articles, no, you don't have to, it's not really an order) and crops up in so many of the programmes we deliver but there are some specific things that need more focus on when writing and listening:

- ❑ **Concentrate**
- ❑ **Be quiet**
- ❑ **Look and listen**
- ❑ **Write as much as you can**
- ❑ **Don't let writing stop you listening**
- ❑ **Use your EARS!**

Sometimes concentrating too much can, in fact, inhibit your listening… and also, if you don't know a word, write it phonetically so you can check up on it later.

Which brings us to grammar, which focuses on words and punctuation, both of which can impact upon the meaning and understanding of a sentence and a document.

The average person knows around 30,000 words but there are over 600,000 in the English language so you won't know them all, especially in jargon filled meetings.

We spend an hour or so looking at the pitfalls of incorrect grammar, but one bit of feedback from a client recently said that some feedback they had thought we had spent too much time on grammar. Our point is that if you get grammar wrong it can cost you money and can change meaning of a document.

We use one example, admittedly, from other shores: *"Citing the "rules of punctuation," Canada's telecommunications regulator recently ruled that the comma allowed Bell Aliant to end its five-year agreement with Rogers at any time with notice. The regulator concluded that the second comma meant that the part of the sentence describing the one-year notice for cancellation applied to both the five-year term as well as its renewal. Therefore, the regulator found, the phone company could escape the contract after as little as one year. This cost Rogers $1 million."*

Of course, it is an extreme example but, amusingly, the email we received (that's i before e except after c coming in there, weirdly) said, and here I quote, "too much time was spent on grammar and punctuality".

We are now thinking of combining Notes with Time Management. And we felt good.

Then it's the taking of notes we focus on. Note, if you don't have the other two, the third won't work.

Stenographers, professional note takers, only look for 92% accuracy when taking notes and when you know that the average person talks around 150 words per minute and the average note taker writes at 30 words per minute, then you realise trying to capture everything is plain daft and impossible.

> “Our point is that if you get grammar wrong it can cost you money and can change meaning of a document

So we give people some tips:

- ❑ **Develop your own shorthand**
- ❑ **Be objective**
- ❑ **Same tense (past)**
- ❑ **80/20 rule applies**
- ❑ **Listen for KEY points**
- ❑ **Stay alert**
- ❑ **Stay factual**
- ❑ **Summarise, don’t try to capture everything**

We remind delegates that, minutes and notes should do the following:

- ❑ Minutes should be a reflection of what happened in a meeting
- ❑ They need to summarise actions agreed
- ❑ They may need to be the actual words used
- ❑ They more often need to be a summary of what happened and what actions were agreed
- ❑ They need to be grammatically correct, factual and objective

But let’s get down to what I find out from delegates from spending 20% of my time delivering these one-day programmes.

1. Being “dropped in” to take notes does not make you a note taker. Most of my delegates have received no training and no guidance for note taking, proving that “sitting-next-to-Nellie” still exists
2. Grammar is not very good in our country. This is worrying but is a simple thing to correct. When people don’t really know how to use a comma, let alone an apostrophe, the documents are up for misinterpretation
3. Confidence make a difference. People respond to positive help. This comes through training, coaching and good management. Delegates go from our day thanking us for increasing their knowledge, skill level and confidence, which is nice to hear

Notes may be a weird key issue in business but it highlights some key areas to develop. And it keeps me off the streets. Some days…

Cryptocurrency and Blockchain

By **Ian Ashleigh** from Compliance Matters

Cryptocurrencies, e.g. Bitcoin, have been in the news a lot, but what are they, what is the technology that drives them and what is the future for this relatively new form of exchange? This article briefly describes Cryptocurrency and the software behind it, Blockchain.

What is Cryptocurrency?

Cryptocurrencies are digital means of exchange. Because most cryptocurrencies aren't regulated by national governments, they're considered alternative currencies – mediums of financial exchange – that exist outside the bounds of state monetary policy.

Cryptocurrency existed as a theoretical construct long before the first digital alternative currencies debuted. Early cryptocurrency proponents shared the goal of applying cutting-edge mathematical and computer science principles to solve what they perceived as practical and political shortcomings of "traditional" currencies. (also known as fiat currencies from the Latin 'let it be done').

Although Bitcoin was the first established cryptocurrency, between 1998 and 2009 there had been previous attempts at creating online currencies with ledgers secured by encryption. Two examples of these were B-Money and Bit Gold, which were formulated but never fully developed. In 2008, a paper called Bitcoin – A Peer to Peer Electronic Cash System was posted to a mailing list discussion on cryptography. It was posted by someone calling themselves Satoshi Nakamoto, whose real identity remains a mystery to this day.

Most, but not all, cryptocurrencies are characterized by finite supply. Their source codes contain instructions outlining the precise number of units that can and will ever exist. Cryptocurrencies' finite supply makes them inherently deflationary, more akin to gold and other precious metals – of which there are finite supplies – than traditional currencies like Sterling, which central banks can, in theory, produce unlimited supplies of. It is estimated there are more than 2,000 cryptocurrencies in existence, the most well-known one being Bitcoin, which is generally credited with bringing the movement into the mainstream. Others you may have heard of are Ethereum, Litecoin or Ripple.

In 2009 the Bitcoin software was made available to the public for the first time and mining – the process through which new Bitcoins are created and transactions are recorded and verified on the blockchain – began.

As it had never been traded, only mined, it was impossible to assign a monetary value to the units of the emerging cryptocurrency. In 2010, someone decided to sell theirs for the first time – swapping 10,000 of them for two pizzas. If the buyer had hung onto those Bitcoins, at today's prices they would be worth more than $100 million.

What is Blockchain?

Blockchain is the digital ledger behind cryptocurrencies, blockchains are either the most important technological innovation since the internet or a solution looking for a problem to solve. Don and Alex Tapscott, authors of Blockchain Revolution (2016) stated "The blockchain is an incorruptible digital ledger of economic transactions that can be programmed to record not just financial transactions but virtually everything of value."

> "The upshot: No bitcoin user has to trust anyone else, because no one can cheat the system

The original blockchain is the decentralized ledger behind the digital currency Bitcoin. The ledger consists of linked batches of transactions known as blocks (hence the term blockchain), and an identical copy is stored on each of the roughly 200,000 computers that make up the Blockchain network. Each change to the ledger is cryptographically signed to prove that the person transferring virtual coins is the actual owner of those coins. But no one can spend their coins twice, because once a transaction is recorded in the ledger, every node in the network will know about it. The idea is to both keep track of how each unit of the virtual currency is spent and to prevent unauthorized changes to the ledger. The upshot: No bitcoin user has to trust anyone else, because no one can cheat the system.

In other words, it is the digital equivalent of double entry book-keeping and the inbuilt digital security means that banks are starting to look seriously at how they can apply the technology. Indeed, we are seeing adverts on television directly referring to Blockchain technology.

Blockchain technology is like the internet in that it has a built-in robustness. By storing blocks of information that are identical across its network, the blockchain cannot:

a. be controlled by any single entity; and
b. has no single point of failure.

Bitcoin was invented in 2008. Since that time, the Bitcoin blockchain has operated without significant disruption. (To date, any of problems associated with Bitcoin have been due to hacking or mismanagement. In other words, these problems come from bad intention and human error, not flaws in the underlying concepts.)

The internet itself has proven to be durable for almost 30 years. It's a track record that bodes well for blockchain technology as it continues to be developed.

The blockchain network lives in a state of consensus, one that automatically checks in with itself every ten minutes. A kind of self-auditing ecosystem of a digital value, the network reconciles every transaction that happens in ten-minute intervals. Each group of these transactions is referred to as a "block". Two important properties result from this:

- ❏ transparency data is embedded within the network as a whole, by definition it is public; and
- ❏ it cannot be corrupted altering any unit of information on the blockchain would mean using a huge amount of computing power to override the entire network.

In theory, this could be possible. In practice, it's unlikely to happen. Taking control of the system to capture Bitcoins, for instance, would also have the effect of destroying their value.

Advantages of cryptocurrency

There is a built-in scarcity value. Most cryptocurrencies are hardwired for scarcity – the source code specifies how many units can ever exist. In this way, cryptocurrencies are more like precious metals than fiat currencies. Like precious metals, they may offer inflation protection unavailable to fiat currency users.

Loosening of Government Currency Monopolies. Cryptocurrencies offer a reliable means of exchange outside the direct control of national banks, such as the Bank of England or European Central Bank. This is particularly attractive to people who worry that quantitative easing (central banks' "printing money" by purchasing government bonds) and other forms of loose monetary policy, such as near-zero inter-bank lending rates, will lead to long-term economic instability.

In the long run, many economists and political scientists expect world governments to co-opt cryptocurrency, or at least to incorporate aspects of cryptocurrency (such as built-in scarcity and authentication protocols) into fiat currencies. This could potentially satisfy some cryptocurrency proponents' worries about the inflationary nature of fiat currencies and the inherent insecurity of physical cash.

Fewer Barriers and Costs to International Transactions. Cryptocurrencies don't treat international transactions any differently than domestic transactions. Transactions are either free or come with a nominal transaction fee, no matter where the sender and recipient are located. This is a huge advantage relative to international transactions involving fiat currency, which almost always have some special fees that don't apply to domestic transactions – such as international credit card or ATM fees. And direct international money transfers can be very expensive, with fees sometimes exceeding 10% or 15% of the transferred amount.

Robust Privacy Protections. Privacy and anonymity were chief concerns for early cryptocurrency proponents and remain so today. Many cryptocurrency users employ pseudonyms unconnected to any information, accounts, or stored data that could identify them. Though it's possible for sophisticated community members to deduce users' identities, newer cryptocurrencies (post-Bitcoin) have additional protections that make it much more difficult.

“Cryptocurrencies are also increasingly popular tools for money laundering – funnelling illicitly obtained money through a “clean” intermediary to conceal its source

Disadvantages of cryptocurrency

Lack of Regulation Facilitates Black Market Activity. Probably the biggest drawback and regulatory concern around cryptocurrency is its ability to facilitate illicit activity. Many grey and black-market online transactions are denominated in Bitcoin and other cryptocurrencies. For instance, the infamous dark web marketplace Silk Road used Bitcoin to facilitate illegal drug purchases and other illicit activities before being shut down in 2014. Cryptocurrencies are also increasingly popular tools for money laundering – funnelling illicitly obtained money through a “clean” intermediary to conceal its source.

The same strengths that make cryptocurrencies difficult for governments to seize and track, allow criminals to operate with relative ease – though, it should be noted, the founder of Silk Road is now behind bars, thanks to a years-long investigation.

Potential for Tax Evasion in Some Jurisdictions. Since cryptocurrencies aren't regulated by national governments and usually exist outside their direct control, they naturally attract tax evaders. Many small employers pay employees in Bitcoin and other cryptocurrencies to avoid liability for payroll taxes and help their workers avoid income tax liability, while online sellers often accept cryptocurrencies to avoid sales and income tax liability.

According to the IRS, the U.S. government applies the same taxation guidelines to all cryptocurrency payments by and to U.S. persons and businesses. However, many countries don't have such policies in place. And the inherent anonymity of cryptocurrency makes some tax law violations, particularly those involving pseudonymous online sellers, difficult to track.

Potential for Financial Loss Due to Data Loss. Early cryptocurrency proponents believed that, if properly secured, digital alternative currencies promised to support a decisive shift away from physical cash, which they viewed as imperfect and inherently risky. Assuming a virtually uncrackable source code, impenetrable authentication protocols (keys) and adequate hacking defences, it's safer to store money in the cloud or even a physical data storage device than in a back pocket or purse.

However, this assumes that cryptocurrency users take proper precautions to avoid data loss. For instance, users who store their private keys on single physical storage devices suffer irreversible financial harm when the device is lost or stolen. Even users who store their data with a single cloud service can face loss if the server is physically damaged or disconnected from the global Internet (a possibility for servers located in countries with tight Internet controls, such as China).

Often Can't Be Exchanged for Fiat Currency. Generally, only the most popular cryptocurrencies – those with the highest market capitalization, in dollar terms – have dedicated online exchanges that permit direct exchange for fiat currency. The rest don't have dedicated online exchanges, and thus can't be directly exchanged for fiat currencies. Instead, users have to convert them into more commonly used cryptocurrencies, such as Bitcoin, before fiat currency conversion. By increasing exchange transactions' cost, this suppresses demand for, and thus the value of, some lesser-used cryptocurrencies.

The future?

At the time of writing, there is little regulation of cryptocurrencies. The Financial Crimes Enforcement Network (FINCEN) in the USA is due to report to the G20 with proposals for international regulation and the Financial Action Task Force (FATF) is considering the KYC implication of the secrecy surrounding ownership of cryptocurrency.

It's less than a decade in, and cryptocurrency has already made a statement in the financial sector. Seemingly out of nowhere, this currency has managed to get people's attention and, often, their admiration. And it's already affecting some aspects of the general public's lives, including entrepreneurship.

Institutional investors may not currently have confidence in cryptocurrency as an asset class. Regulation of the sector, and recognition of cryptocurrency as an asset class, will go some way to improving confidence and therefore cement cryptocurrency into the mainstream much like equities or property today.

How relevant are your Key Performance Indicators?

By **Andy Snook** from Performance Evaluations

Every firm uses Key Performance Indicators to measure how its employees are performing against set business objectives. In the Financial Services industry that also includes measuring compliance with set regulatory requirements as well. But ask yourself this: How relevant are these Key Performance Indicators for the firm today? How relevant would they be if they were set against the firms' business plan for the next year, two years, or five years?

We live and work in an environment of constant change and, whether this is regulatory changes, internal structure changes, or even through just the passage of time itself. All or any of these could have an impact on the metrics we use measure our people's compliance or performance. Yet rarely do we review and amend these measurements to fit the inevitable changes.

Any event could trigger a review. Perhaps the internal structure of a firm has changed, for example, if there have been some joiners or leavers to the advisory team. Joiners mean that the induction criteria must be up to date and relevant to both experienced and inexperienced individuals who join the firm. What about the existing team? There will be changes for the advisers, whether this is by more time in the role, size of their client bank, or split of business, and each of these have their own measurements and associated Key Performance Indicators. Perhaps there is a Key Performance Indicator for client servicing. An adviser may have had changes to their existing client bank, maybe by an increase of number of clients, a wider geography of client locations, different demographics, or perhaps the spread of type of business transacted may have changed according to the needs of the clients. Maybe to meet demand the firm has perhaps moved to a new back office system. Any of these could mean that the metrics to meet the Key Performance Indicators could need amending.

What if regulatory requirements change, such as the recent changes to data protection and the increases in transparency to improve investor protection? The firm may well have created new or revised processes and procedures. However the chances are that the way the firm measures the performance of individuals hasn't changed. The Key Performance Indicators could well be exactly the same as they have been for several years, and the impact of not reflecting these changes is likely to add further to the very risks that the Key Performance Indicators could be designed to help prevent.

For those Key Performance Indicators that have an emphasis on a risk-based approach, and in todays' climate they should, these should certainly be regularly reviewed regularly, especially if these include any activity that if not carried out correctly could lead to some financial penalty, either to the firm or to the adviser, like the servicing requirements for existing clients to ensure that the clients are receiving the service that they are paying ongoing fees for, or any process that could lead to a customer complaint.

> “Key Performance Indicators should always be set up to not just to measure performance but also to promote good behaviours

The starting point for setting up Key Performance Indicators is deciding what needs to be measured and why. The first question that should be asked is whether the Key Performance Indicators are measuring the right things, and how they're being measured. Take a good look at the processes that the Key Performance Indicators are linked to. Are these processes set up so that the individuals using them are can achieve the Key Performance Indicators, or are there barriers within a process that could lead to failure to meet the Key Performance Indicator?

Key Performance Indicators should always be set up to not just to measure performance but also to promote good behaviours. Some can also be linked to a reward or penalty system if the firms feels inclined, although it could be challenged whether this approach will really deliver what it's intended to do. Do they promote good behaviours, or do they drive bad behaviours? How about a Key Performance Indicator set up to measure quality with a benchmark at a set percentage, with a reward for those individuals exceeding the benchmark, and a penalty for those individuals falling below the benchmark. An individual working the process may continually fail to make the benchmark for any numbers of reason; time constraints, lack of understanding of the process, or perhaps lack of attention to detail, and therefore incur a penalty which could be a financial one, in which case the penalty might be appropriate. But what if, on investigation, it turns out that the process itself is the barrier? That Key Performance Indicator has failed its intended purpose it's designed for because the process is preventing this and therefore there is no real benefit from that Key Performance Indicator in its current form unless the process is corrected.

When did you last review the Key Performance Indicators in your T&C scheme? Take a look. You might be surprised what you find!

Your Starter for Ten – Answers

1. If food is napped, how is it served?
   In a sauce
2. In which country did Avocados originate? Mexico, Brazil, Italy, Spain   Mexico
3. A 'Hutchinson' is what type of container?   Bottle
4. In cookery, Pelmeni dumplings originated in which European country?   Russia
5. Picholine, Gaeta and Kalamata are all varieties of which fruit?   Olive
6. Which fruit is also referred to as a Chinese Gooseberry? Kiwi, Peach, Ugli Fruit, Plum   Kiwi
7. Leeks come from which variety of plants? Mallow, Grass, Rose, Lily   Lily
8. Which of these fruits is required to be over ripe before they are eaten? Mango, Lime, Medlar, Mandarin   Medlar
9. What fruit has varieties including Gibbon, Golden Pillow and Golden Button? Durian, Banana, Ugli Fruit, Lemon   Durian
10. Savoy is a famous type of which vegetable? Potato, Cabbage, Broccoli, Cauliflower   Cabbage
11. In cooking, what is the term for plunging vegetables into boiling water for a short time, and then plunging them into cold water until they are cold?   Blanching
12. Oenophobia is the hatred or extreme dislike of which drink?   Wine
13. Onion comes from which member of the plant family? Rose, Mallow, Lily, Grass   Lily
14. Burpee's Golden is a variety of what? Beetroot, Broad Beans, Broccoli, Cabbage   Beetroot
15. Which of these is the correct name for a type of peach? Ulberta, Ilberta, Elberta, Alberta   Elberta
16. Broccoli comes from which family of plants? Grass, Lily, Cabbage, Rose   Cabbage
17. In food, 'E' numbers 140-149 are which colour?   Green
18. In food, 'E' numbers 110 – 119 are which colour?   Orange
19. Which is the most prominent Vitamin in a Runner Bean? C, D, A, E   C
20. *Brassica rapa* is the Latin name of which vegetable? Cabbage, Potato, Turnip, Carrot   Turnip
21. New American, Stubbs and Hicks Everlasting are types of which berry? Strawberry, Cherry, Mulberry, Blackberry   Mulberry
22. What fruit has the Latin name *Citrus aurantifolia*? Orange, Plum, Lemon, Lime   Lime
23. 'It's the real thing' was a 1970's advertising slogan for which product?   Coca Cola
24. Damsons belong to which family? Plum, Cabbage, Rose, Grass   Plum
25. Calabrese is a type of Broccoli from which country? England, Italy, Spain, France Italy
26. Rossana, Dumbarton Oaks and Vincent are all types of what? Kiwi, Peach, Plum, Ugli Fruit   Kiwi
27. A (What?) Grieve is a type of Apple? David, Edward, James, John   James
28. *Brassica oleracea botrytis cymosa* is the Latin name for….? Broad Bean, Cauliflower, Broccoli, Cabbage   Broccoli
29. Adam Richman takes on food challenges in which US television series?
    Man v. Food
30. Interdonato, Feminelle Ovale and Eureka are all types of what? Peach, Lemon, Orange, Lime   Lemon

GDPR - The People Dimension

Digital training and compliance apps to help you protect your business

The General Data Protection Regulation (GDPR) is ultimately about people. They're at the front line making decisions that impact your business. Are you sure they're making the right ones?

Have you implemented appropriate "technical and organisational measures" to demonstrate your compliance with GDPR?

Skillcast can help with the full range of organisational measures:

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Contact us today to find out how you can address the People Dimension of GDPR compliance.