

narator

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conference edition



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The Association of Property
and Fixed Charge Receivers

wake up call for banks



Julian Healey

The role and regulation of property receivers is among topics under scrutiny by the All Party Political Group looking into Fair Business Banking. Nara's chief executive Julian Healey reported back on his representations on behalf of members.

Banks – particularly the challengers – are sleepwalking into a book of distressed loans due to their inexperience. This is what Julian said he had warned members of the APPG charged with finding ways to restore trust in the banking and financial services sector.

“The feedback I'm getting from some of our members is that lenders and particularly the newbies, the challenger banks, the crowd funders, the new boys on the block – are currently, in today's market, sleepwalking into distressed loans – with no knowledge, no process, no corporate history on how to resolve or mitigate that position.”

Mr Healey had also drawn politicians' attention, he said, to the fact that most complaints about fixed charge and property receiver appointments related to valuations, rather than to how they were executed.

“The impression created by those vociferous claims is that all of you [receivers] are an ill-disciplined, unregulated, generally opaque set of crooks. We know that is not the case.

“...Many complaints are based on whether the appointment should have been made in the first place, rather than about how the appointment has been conducted,” he said.

And Mr Healey had also spelled out to the APPG how the impact, on the borrower, of the appointment of a Nara receiver depended on who that borrower was: “I've advocated a balanced view of the fixed charge recovery remedy. Specifically, I've highlighted the financial benefits there are for both borrower and lender alike.

“But at the same time I acknowledged there can be something of an impact when a fixed charge receivership takes place. I stressed the huge difference between portfolio, investor-led lending and business lending secured on real property. I've drawn specific attention to the difference between a speculative property investor, who is highly geared in a cyclical property market, possibly with a limited personal guarantee (PG)

... to someone who has taken a fairly chunky loan for the purposes of developing their business, which just happens to be secured on real property. The negative impact of fixed charge receivership is much greater for them.”

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The Association of Property and Fixed Charge Receivers

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Hayley Simmons - Shaw Gibbs Insolvency



Our speakers are invited to our conference for their insight, reputation and experience; they

are encouraged to be provocative, to question and to challenge.

As such the views expressed by our speakers represent their individual opinions and as such are not necessarily

the views or adopted policies of nara.

2018/19 dates for your diary

Don't forget to note the following dates in your diary:

16 October – Fundamentals of LPA Receivers

7 November – nara Training Day Brighthouse Leeds

21 November – nara Training Day Haberdashers' Hall London

January 2019 – nara Part I – Intro to RPR Exam

April 2019 – nara Part II – RPR Exam Revision

16 May 2019 – nara Spring Conference Haberdashers' Hall London

Further details and booking form are available to download from the Nara website www.nara.org.uk

To reflect the impact of the digital revolution on our work and world, the theme of this year's Nara Spring Conference, at the Haberdashers' Hall on May 17th, was **The onslaught of online: what now for politics and property?**

Our keynote speaker was Tim Shipman, political editor of the Sunday Times, who was followed by Dr Gordon Fletcher, retail expert at Salford University, Paul Shamplina, founder of debt recovery company, Landlord Action, and Richard Upton, of regeneration developer U+I.

when social media gets anti-social

Even in the bricks and mortar world of landlords, the digital revolution is having an impact. From squatters' websites to Airbnb, Paul Shamplina, co-founder of eviction company, Landlord Action, revealed how.

Unwanted occupants, whether squatters or illegal sub-let tenants, are a problem that Paul Shamplina has tackled for decades. The champion of landlords' rights explained how the housing shortage, high rents, arrivals from overseas and the growing number of homeless – recently reported by the Evening Standard report as more than 1100 a day in the capital – had exacerbated the problem. And the internet has only added to the mix.

Squatters Online

In 2012 the law changed – something for which Paul had campaigned for – to make residential squatting illegal and punishable by a hefty fine of £5,000 or a prison sentence. Although some squatters still show up with sham documents to fool police, this has generally made it much easier for landlords to evict squatters, he said, with only six prosecutions last year. It has however, shifted the problem – the squatters – to commercial property where the law has not been tightened. The quickest way to remove unwanted occupants from commercial buildings is to apply for an Interim Possession Order after 28 days of occupancy, which gives squatters 24 hours to leave. And the internet has made it easier for squatters to advertise empty properties and learn exactly what their rights are: "We come across squatters who go on social networks and tip people off with regard to empty properties... And Squatters now know more about the law

than lawyers!" said Paul, highlighting a particular website, squatters.org.uk, which is dedicated to helping squatters. One serial squatter in Southend had his own YouTube channel devoted to commercial property squatting.

The use of commercial properties by squatters has seen a rise in guardian companies being taken on to protect empty developments, added Paul.

Unlawful Hosts

The explosion in the number of people using accommodation website Airbnb, as both hosts and guests, was having a pronounced affect on rental properties in London, warned Paul.

Firstly, he explained, there were those who illegally sub-let rooms while on a short-hold tenancy agreement. With rents so high, struggling tenants were increasingly room sharing to make ends meet. And despite Airbnb introducing its cap of 90 days per year for properties in London, Landlord Action had numerous such sub-letting cases on its books.

"Airbnb sub-letting breaches can be an enormous problem for the landlord," he said, "The freeholder can threaten to forfeit the lease, there's antisocial behaviour, breaches of mortgage terms and insurance can be an absolute nightmare with people coming and going."

One case involved a junior doctor renting out a landlord's Chiswick property as a three-bed "boutique hotel", making £5,600 a month. Another, where the culprit was jailed for four years after making £100,000, saw 25 unsuspecting tenants in one three-bed semi. He warned that in some areas there were criminal gangs operating sub-letting scams to unwitting landlords.

Paul added that it was, however, difficult

for councils to enforce with reduced resources to prove breaches were taking place.

A further problem, which would have an even wider impact, was that landlords themselves were pulling properties out of the market for long-term tenants in favour of Airbnb guests from whom they could make more money.

"We are seeing landlords looking to maximise profits from HMOs, wanting higher yields, especially with the new tax changes where they can't offset their mortgage interest," he explained.

This was also causing a raft of problems – from guests disturbing local residents to further reductions in the number of affordable rental properties in London, pushing prices up yet further.



Paul Shamplina
Landlord Action

retail at risk

With several big name retailers already fallen by the wayside and others closing stores, online has been seen as the nemesis of the high street. But Dr Gordon Fletcher, digital retail expert at Salford University, argued that online traders were at risk, too.

Dr Gordon Fletcher, the co-director of Salford University's Centre for Digital Business, asserted that to believe high street retail and online retail were in competition with one another was a "dangerous and increasingly dated" view.

"What's happening isn't in one space or another," he said, "it's a blend of both spaces, where success often lies in the middle ground between these things. "The principles, concepts and the explanations aren't that divided between digital and traditional, it's actually about engaging with people in a different way. It's about people, not the technology." The co-editor of a recently published guide, *Digital and Social Media Marketing*, Gordon pointed to traditional marketing concepts and, in particular, the "four Vs" used by Big Data scientists: Variety, Velocity, Veracity and Volume. When businesses came to Gordon and his team for advice on digital transformation, these would be the starting point.

But, he said, the retailers that had disappeared had struggled with these concepts. They had failed to move quickly and had been caught standing still. They had found the requirement to offer variety, at speed, particularly challenging: "Consumers are increasingly adept at getting exactly what they want and to some extent, there's a dissatisfaction with going up and down faceless aisles pulling things off, with limited choice, when there's so much more

choice available from the online retailer." When it came to Veracity, or authenticity, he referred to the proposed "fat tax" on unhealthy foods as an example of the growing mistrust among consumers of high street retailers. He said online brands were seen as more transparent in their activities. And on Volume, he acknowledged it was "difficult" for some retailers to deal with so many different requests at scale. One "V" that the Big Data scientists tended to omit was Value. This was however, a crucial measure that all businesses must understand.

"Without that clear value proposition and without that differentiation, things go wrong," he said.

Successful Retail

Instead of pitching high street retail against online retail, Gordon suggested comparisons between "old retail" and "new successful retail" would be more productive. This would involve formerly traditional retailers shaking off some of their legacy – including property.

"That's what we're seeing now," he explained, "A lot of the businesses are being smart about this and trying to stay agile, ahead of the game and are talking about individual closures of branches rather than the loss of their whole business. It's about shedding the legacy and you don't need that much physical space."

He cited British high street stalwart M&S as being "quite clever" in its gradual transformation from a department store to a food retailer in locations with captured markets, such as motorway service stations. "M&S is understanding where the value proposition is and where the other Vs are and has rejigged M&S around something slightly different."



A old mill building in inner-city Manchester
– and home to the £30m ladies online fashion store, *Pretty Little Thing*.

Property and People at Risk

But it isn't just the high street retailers that need to stay on their toes with regard to their Vs, he warned. The newer online retailers were also under serious threat – from the big boys, particularly Amazon.

"Realistically the only game in town is Amazon," he said, "It's the thing you are judged by and it's the thing you're up against. Amazon, despite being huge, really does the five Vs very well – offering proposition and variety ... both at volume and at speed. These are all things that Amazon constantly works on." He added that Amazon regards itself as a data company, because it sees that data is key to what it does.

In light of this, Gordon highlighted that a "significant" number of the top 100 online retailers based in the North of England were showing negative earnings despite, in some cases, attracting sales in their millions. "The local digital businesses don't have the earnings their marketing campaigns would suggest," he said.

Although some had already become household names, there was a real risk they would fall prey to competition from Amazon or any large global retailer. For example, Chinese behemoth Ali Baba was looking to flex its muscles further afield. He pointed out that all UK online retailers have a physical property

somewhere, though generally not on the high street. He highlighted how online traders tended to set up stall off the beaten track – many without even advertising their name.

If these businesses failed, he warned, their backwater properties would not be the only thing to become redundant – but the communities around them, too.

"There's a physical space to all online retailers one way or another. They move away from the high street to all sorts of unusual locations, where failure, in terms of business loss, will actually have a major impact on quite impoverished communities. "In some cases, where that employment brought by a relatively small online retailer would be a significant loss to that local area."



Dr Gordon Fletcher
Salford University

from Russian bots to cabinet plots

He does not believe democracy is under threat from fake news but he does think the Government is in crisis. On a whistle-stop tour of the corridors of power, political editor of the Sunday Times Tim Shipman tried to make sense of the mayhem.

While events have inevitably shifted since the Nara conference in May, Tim Shipman's analysis holds firm. The journalist and best-selling author on Brexit talked of a country in "chaos" post-referendum, with a "weak and stable" Government under threat from all sides, not least from Boris Johnson, who had not then resigned.

But in response to the Nara conference theme – the onslaught of online: what now for politics and property? – Tim claimed neither Russian bot activity on Twitter nor stolen Facebook data was responsible for the Brexit result; it was rather down to the "colossal failure" of the British political class in its response to the 2008 financial crisis.

Digital Impact

In their General Election campaign, the Tories outspent Labour £2m to £1m on advertising on Facebook, but Labour enjoyed greater success by creating a more dynamic campaign that prompted mass organic sharing, explained Tim. "The Tories had to pay for everything, whereas Corbyn got people sharing it of their own accord," he said. "Niche" issues, such as foxhunting and the ivory ban – relatively ignored off-line – gained huge traction online, with millions of online shares, he added. He went on to draw attention to a Times investigation that revealed what he called a "slightly dark side" to the digital landscape. The newspaper had revealed that prior to the General Election,

tens of thousands of Russian bots had pumped out politically-charged features that favoured Labour nine out of 10 times. But despite this, he challenged the theory that the Brexit vote had been swayed by online meddling. He explained that Cambridge Analytica, the now defunct company found to have targeted millions of US citizens with Facebook posts in the presidential election using stolen data from their accounts, had not worked on the official Leave campaign. Some of its staff had done a small amount of work for UKIP before the referendum. But the Cambridge Analytica dataset was almost entirely of American voters and was of no use in the referendum campaign. Vote Leave had used a different group of modellers to create their own data in house, he said. With both the Leave and Remain camps using a football-themed "trick" to entice potential voters to hand over their email addresses, he implied that sophisticated social media targeting was something we should get used to.

"I personally think some of this has been motivated by a dislike of the result as much as about the way data has been used and misused. When Barack Obama was doing this stuff, it was regarded as extremely clever and has become a major feature of elections everywhere. Clearly you shouldn't be stealing or misusing data, but it's been going on for a long time."

Although there was talk among ministers of limiting online advertising for election campaigns, he himself did not feel the onslaught of online was putting democracy itself under threat: "My summary is that, if you believe democracy is under attack, you have to believe 17.5m people were duped into voting. Actually it was the colossal failure of the British political class, in the way they responded to the

financial crash of 2008.

"In a sense, it's an expression of democracy rather than a crisis for it."

Turbulence ahead

Before she called the General Election, Theresa May was doing OK, Tim said. She went in big on the negotiations and shot for the moon. Unlike Cameron, she played her cards close to her chest, kept people guessing and shot for the moon. But most importantly, in her "no deal is better than a bad deal" Lancaster House speech, she threatened to walk away. This unnerved the EU, which feared Britain would become a Singapore-style tax haven.

"I know from European ambassadors that the one thing throughout this process that they have been concerned about is Britain deregulating and setting up a free-for-all system with low corporation tax," said Tim. But after the General Election that weakened her so, May had doubled the warring factions she now had to placate. Added to the original two groups – the Brexiteers versus 27 EU countries were now the groups of 15 to 20 hardcore Remainers, plus the DUP, which now held a lot of sway.

"She now has four problems and has spent the last year in this square being dragged one way and the other. It's a bit like one of those medieval tortures where the four limbs are tied to different animals and at one time or another, the different corners become more powerful or aggressive."

Yet despite this unenviable position, May had made surprising progress: provisionally and to degree, Remainers had agreed we would leave the Single Market and Customs Union, and that the European Court of Justice would have no jurisdiction. Brexiteers had accepted a transitional period, some £40bn in payments and an extension of free movement. But the debate on alternatives to the Customs Union was fraught: "We have a bunch of ministers arguing two possible options – both of which are probably illegal, both of which few people understand and both of which the EU has already rejected. And

Dessicated Stoa

Tim Shipman peppered his talk with some choice phrases prompting laughs and wry smiles from his audience. "Weak and stable" described the Government led by May, who was "pathologically secretive". Boris Johnson was a man who "cuts his hair with pinkish shears". And, although he didn't dwell on the special relationship with our cousins across the Pond, Tim did refer to a certain premier as "a man with a dessicated stoa on his head".

neither of which could command a majority in the House of Commons."

Tim predicted threats to May's leadership would come from all quarters at the next General Election, which could be any time between now and 2022. The Cabinet was troublesome, with Michael Gove, Jeremy Hunt and Sajid Javid all contenders for the top job. And Boris Johnson, "one of the great survivors" – who had not resigned at this point – should never be ruled out, he warned.

The final threat came from Jeremy Corbyn's Labour party. With popularity running at 40% and with half a million members, the Left certainly had a chance. If they could get the turnout up from 50+% to 70+%, it would be "game over", Tim said. The youth vote must be tackled as a priority by the Tory party, which had seen the age at which people flip from Labour to Conservative catapult from 34 at the start of the last General Election campaign to 47 at the end.

Property receivers could take heart, Tim concluded, as Brexit had caused a good degree of turbulence.



Tim Shipman
Sunday Times

property faces #MeToo moment

Richard Upton, deputy chief executive of regeneration developer U+I, challenged but inspired his audience when he said the property industry should strengthen its moral fibre to lift this country's ailing spaces.

Richard Upton pulled no punches. Referring to the Harvey Weinstein scandal and, in particular, to those around the disgraced Hollywood producer who did nothing to stop him, U+I's deputy chief asked what the property industry's "guilty secret" was.

The connection was that the revelations from "brave women and brave men", assisted by social media, had prompted a regeneration, in society, in its truest sense. That is, to undergo "moral, spiritual or physical renewal", which is something the property world might look to, said Richard.

He highlighted how the #MeToo movement had spread within just eight months to see big heads roll in the UK, in sport and politics. And even closer to home for property people, the Presidents Club had been condemned for its behaviour. He said, while social media had doubtless played a part in bringing about these downfalls, he suspected it was really because everyone had known what was going on for a long time and simply did nothing about it.

He asked: "Thinking about property and that full sense of the definition of regeneration, I

wanted to throw out a challenge: what is our guilty secret? What have we been doing for so long that we know is fundamentally not right?" he asked.

He echoed the sentiments of Larry Fink, head of global investment giant Black Rock, who recently challenged companies to consider their impact on communities and workforces.

"I would agree with him particularly in the property sector, where what we produce has such a tangible effect on the lives of so many people. So, developers, I would suggest, have a much wider responsibility to the communities in which they develop and now might be the time to step up. Now might be the time for our #MeToo moment."

He suggested leaders may be held back by an instinct to do things the way they've always been done – and that have also brought in the desired financial rewards.

"Everyone made an awful lot of money, really good money, in the way that things were done but I don't think that's the right approach any more."

He expanded on what had gone wrong so far, when developers had succumbed to the "lowest common denominator": "Every day, we too regularly destroy heritage in the wrong way, we accept tall buildings in the wrong location, we accept mediocrity in architecture, particularly in housing and that's before we get to the particular reputational challenges that we face... We



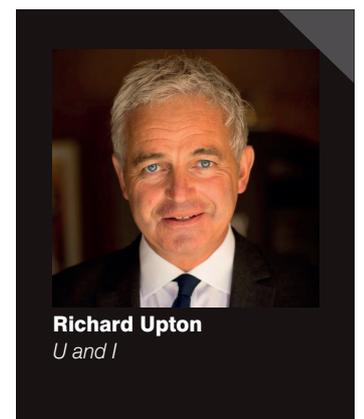
Nipper the Dog stands as a centrepiece at the Old Vinyl Factory in Hayes, West London. U+I's vision was to revitalise the space, the former home of His Master's Voice record label, by honouring its musical

need to drive socio-economic value, not just the bottom line." The bottom line came next, he said, and the measurement of a wider sustainable value was crucial for success in both. At U+I, where regeneration projects range from failed business parks to flagging town centres, robust performance reviews along these lines take place five years after completion. "We feel that this assessment should be a part of any development. It should be obvious, up there like a badge or blue plaque on the wall. Once you've exposed the guilty secret – and much of our industry would rather it wasn't – then measures can help us deliver on so many fronts."

As one example, Richard referred to U+I's regeneration of an area around Deptford railway station in South -East London. Known now as Deptford Market Yard, the once tired site frequented by drug-users and the source of dodgy MOTs has been transformed to a mixed-use development including arches open only to retailers from the local area, and 132 new homes.

"Because of the mix of uses, it delivers twice the land value in social-economic value, every year, forever. The land value is irrelevant if you do the right thing." At the same time, Richard acknowledged the difficulties of achieving these ideals in the real world of "hard commercial realities" such as rising building costs and a skills and labour

shortage fuelled by Brexit. But if the developers, the Government and local authorities could all step up, it could be done, he said. Collaboration, trust and partnerships were key. "It's about the public sector and the private sector working together, whether in retail, the high streets, or wherever... If we face up to it, everyone involved in the property industry, politicians and developers alike, can change things for the better from the ground up. And we can do it quickly – in months, not years. "In conclusion, let us all in the property world step up with moral and spiritual purpose to invigorate the country. We can do so much better."



Richard Upton
U and I

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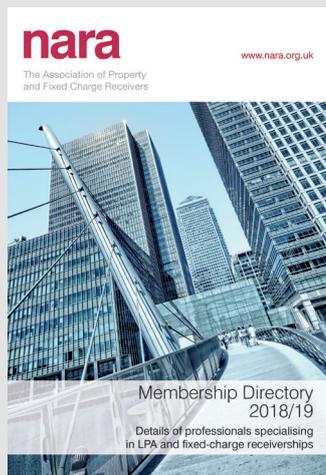
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