

Royal Commission: Summary of Round 7 Hearings

The Royal Commission have considered a broad range of matters in relation to the financial services industry. As part of completing the inquiry, the Commissioner has been conducting public hearings which focus on specific aspects of the financial services industry.

The final round of public hearings (round 7) by the Royal Commission was on the policy questions arising from the first six rounds of hearings, which had also been raised in the [Interim Report](#) issued by the Royal Commission in September 2018.

During round 7, representatives of the major banks and regulators were asked to provide their views on the policy questions raised to date and the causes of misconduct and possible responses, including any potential regulatory reform. In addition, the Commission considered the role of regulators in supervising the actions of financial services entities, deterring misconduct and taking action if misconduct has occurred.

It was noted during this round that the Royal Commission had received around 2000 submissions in response to the Interim Report and policy questions from Round 5 (superannuation) and Round 6 (insurance). There were ten common areas of agreements from respondents as follows:

- Simplification of the law;
- Clarify the duty owed by a mortgage broker to their clients;
- End grandfathered commission payments to financial advisers from superannuation accounts;
- Simplification of disclosure requirements;
- Improve accessibility of banking services to regional and remote areas, including support for a national Farm Debt Mediation Scheme;
- Bring expenses only funeral insurance within Chapter 7 of the *Corporations Act* and the consumer protection provisions of division 2 of Part II of the *ASIC Act*;
- Impose civil penalties for breaches of the requirements in the *Superannuation Industry (Supervision) Act* (SIS Act) to do with trustees exercising powers on the best interest on beneficiaries;
- Sell add-on insurance through a deferred sales model;
- Extend unfair contract terms provisions to insurance contracts; and
- Introduce a compensation scheme of last resort.

The representatives were asked to comment on these points above and on:

- remuneration and incentives;
- culture and the role of the Board;
- vertical integration;
- extension of the Banking Executive Accountability Regime to insurance and superannuation;
- fees;
- accountability and oversight of financial advisers;
- the role of the regulators; and

- engagement with the regulators.

Overall, Commissioner Hayne found that culture and leadership were the common factor between specific instances of misconduct, and that whilst these required improvement, this may not be possible through legislation or increased regulation, nor is it something that may change quickly – improving leadership and accountability will improve culture, but he conceded that this may not be quick.

Commissioner Hayne remarked that he was struck by the number and size of processing and administrative errors industry-wide.

The Role of Regulators

Both ASIC and APRA appeared at the Royal Commission, fronting questions about their ability to regulate the superannuation and financial services industry. APRA, in particular, was criticised by Commissioner Hayne for taking legal action only once in the past decade. Commissioner Hayne also criticised the lack of clear regulations granting power to oversee the superannuation industry, and the regulators' preference for education and negotiation over litigation.

APRA admitted they had historically treated poor conduct as an indicator of risk rather than a risk in itself, which, despite being consistent with international regulatory policies, may need to be revised to improve outcomes.

APRA also indicated that they believed initiatives by the banks such as accountability statements, remuneration restrictions, strengthening governance requirements, a focus on culture, and more forceful regulatory enforcement will drive change, as cultural change cannot be driven by regulators alone.

ASIC's enforcement approach was also criticised for the delay in taking enforcement action and the efficacy of ASIC's use of negotiated outcomes rather than litigation to resolve issues. ASIC agreed they had 'over-utilised' and 'over-relied' on negotiated outcomes in the past. However, ASIC have indicated that they intend to undertake more court based actions, especially as they have received more funding from the government to enable this.