

SUBMISSION ON POLICY ISSUES IDENTIFIED IN THE INTERIM REPORT

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Submission for: My Self

Name of other person, business or organisation:

Do you agree to your submission being published: Yes

Do you agree to your full name being published: Yes

Your submission:

Between the 11 October 2018 and 19 October 2018 all of the big four Australian Banks gave evidence before the House of Representatives Economic Committee Meeting ("HRECM"). Included in that evidence all four unanimously gave evidence that they would take full responsibility for the wrong doings and misconduct of their respective banks.

Simply written laws already exist but when the Banks do not follow them they are not enforced.

My submission relates to what I believe to be a fair and equitable outcome for all stakeholders in these disputes with Banks, including the Boards, the CEOs, their employees and the victims. I have set out in this submission that the best path forward is that a moratorium period be given to all Banks and ADIs to make full and frank disclosure in regard to their misconduct as defined in the Letters Patent of this Royal Commission. They should be given a chance to remediate those customers within a prescribed time. As the current Boards and CEOs are at the apex of the banks at the time this full disclosure is required to be made, then as the evidence before the HRECM was that the CEO's take full responsibility, they should be held criminally responsible for any non disclosure and non payment. Their own personal assets should be confiscated as proceedings of crime.

I am an [REDACTED] Bank Victim. I made submissions to the Royal Commission about [REDACTED] misconduct. My matter was not a case study. [REDACTED] gave evidence [REDACTED] that [REDACTED] policies and procedures in regard to their wrong doing is driven by amongst other things, negative publicity by politicians and media. If the Royal Commission is not extend as us bank victims require so that our human and legal rights can be investigated then severe laws need to be put in place to ensure that there is compliance with existing laws.

In my own situation [REDACTED] Bank have breached at a minimum 14 Commonwealth and/or State Laws, which under the letters patent for this Royal Commission is misconduct. I personally reported these breaches of laws to AUSTRAC, ASIC, APRA, Commonwealth Police and Queensland Police. Only when law enforcement has been undertaken in regard to existing laws can we truly know if the law needs to be changed, simplified or more compliance put in place. The Banks state that there is too much compliance, but only when they truly comply with that compliance can we know if this needs change. Commissioner Hayne has stated that there is, in my words, a blatant disregard for existing laws.

I was one of two victims that [REDACTED] met with immediately after he gave evidence at the HRECM that he would take full responsibility for [REDACTED] wrong doing and misconduct. In that meeting, only one hour after giving evidence that he would take full responsibility for [REDACTED] wrong doing, he stated that he refused to look backward and only wanted to look forward, thereby refusing to investigate the basis of the dispute between my husband and I with [REDACTED]. To truly take responsibility it is common sense that the first step in that process to be to look backwards at the root cause of this dispute. To refuse to do this means that he is not meeting the commitment he made in evidence at the HRECM. He may be in contempt of Parliament, but regardless of this it proves that they still do not believe that they will be held to account for this misconduct if the Royal Commission is not extended so each and every submission is dissected. Within one week of giving this evidence to the HRECM [REDACTED] will not look backward and they have now told me that they will not respond to me any further. It is impossible for [REDACTED] accepting responsibility for conduct that occurred in the past, without looking specifically at that past conduct.

Currently in my situation 14 different pieces of legislation exists, that [REDACTED] chose not to follow. Those laws already exist. But they are not enforced. Society should also not be burdened with the cost of enforcing laws, that the Banks chose when and when not to follow. But as they have chosen when not to follow the law, there was no law enforcement agency or regulator that investigated the breach of these laws. A good place to start is to ensure that the agencies given the authority to enforce these laws, actually take the complaints and investigate them. This needs to hold someone at the top of these agencies accountable for the non enforcement of these laws.

So to push the cost of determining what events of misconduct the Banks have committed back to them and not to society I propose that the following procedure be enacted into law and the banks given a moratorium period to comply with

these laws, remediate customers and if they don't the Chair of the Board and the CEO's of these Banks made responsible for same:-

1. Prior to the end of the Royal Commission, the Commission require that the ADI's, Insurance and superannuation companies make full and frank disclosure about all events of misconduct, where those events of misconduct are as defined in the Letters Patent for this Royal Commission;and
2. That this full and frank disclosure include amounts that the bank are required to remediate to remedy these events of misconduct; and
3. That this amount of disclosed remediation is to be disclosed at a realistic value of the damage caused to the victim and not undervalued; and
4. The date that this remediation will be paid in full; and
5. Failure to provide this full and frank disclosure would be a breach of the Royal Commission Act or a new act to be legislated by Parliament; and
6. That a moratorium period of say three months is given to the Banks to provide this full and frank disclosure (they have already had to provide this evidence to the Bank in early 2018 so they should be able to do this within this time - victims have had to wait years for this to take place and they should not be held out from any settlement for any longer than necessary. Longer than that period would cause further detriment to these victims); and
7. The failure to provide this full and frank disclosure and remediation would be a criminal offence of both the CEO and Board members of the Bank (this is making the CEO accountable for this misconduct in line with their evidence at HRECM they would accept that responsibility); and
8. If further events of misconduct are found to have existed and full and frank disclosure was not made by the Banks, then the Bank should have to pay five times the amount of compensation and a civil penalty of the same amount of five times the compensation as a deterrent to ensure that the Banks comply with the disclosure and remediation provisions; and
9. The failure to have disclosed these further events of misconduct and its subsequent remediation, and where it is determined a penalty rate of compensation applies then this would be a criminal offence of both the CEO and all board members and a gaol term of up to 10 years in gaol should be the penalty depending on the severity of the breach; and
10. If found to be guilty of these criminal offences then their personal assets would be confiscated as the proceeds of crime.

The enforcement of these proposed legislated provisions should be done by the Federal Police and not ASIC or APRA.

Only a legislated scheme as outlined above where the CEO's are held to account under a criminal penalty regime, where their assets can be taken for their misconduct, will make sure that the CEOs and Bank Boards take full responsibility for this misconduct. Their word has proven not to be good since the 12 October 2018. It is unlikely unless they are held personally responsible that this will change.