

Logical Thoughts



Final comments on the Royal Commission into the financial services industry



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In early February 2019, the Royal Commissioner Kenneth Hayne presented his final report on the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. The report made 76 recommendations, spread across banking, financial advice, superannuation, insurance, culture, governance and regulation and regulators. The Government responded by promising to act on all 76 recommendations. It is anticipated the recommendations in the report will force a major shift in the financial services industry.

Hayne outlined three key issues that emerged in connection with the provision of financial advice and these include:

- 1) 'Fees for no service': ongoing fees charged when no advice or service was given to the client;
- 2) Clients have often been given poor advice that has left them worse off than they would have been if proper advice had been given;
- 3) The fragmented and ineffective disciplinary system for financial advisers.

The Royal Commission Final Report made scathing remarks about the state of the practices and people in the financial services industry. Below are extracts from the final report that summarise Hayne's analysis of the financial services industry:

“In almost every case, the conduct in issue was driven not only by the relevant entity’s pursuit of profit but also by individual’s pursuit of gain. Providing a service to customers was relegated to second place. Sales became all important. Advisers became sellers and sellers became advisers.”

“The interests of client, intermediary and provider of a product or service are not only different, they are opposed. An intermediary who seeks to ‘stand in more than one canoe’ cannot. Duty (to client) and (self) interest pull in opposite directions.”

Very clearly the report states that conflicts of interest need to be eliminated rather than ‘managed’. Therefore, recommendations to effect this include:

- Grandfathering provisions for conflicted remuneration should be repealed as soon as is reasonably practicable. The Government has stated that it will end Grandfathered commissions effective 1 January 2021;
- Mortgage brokers must act in the best interests of the intending borrowers when dealing with home lending;
- Reducing the cap on commissions on life risk insurance products to zero.

Underlying principles governing the Hayne recommendations

The underlying principles that form the basis of the recommendations reflect the six norms of conduct. These are:

- Obey the law;
- Do not mislead or deceive;
- Act fairly;
- Provide services that are fit for purpose;
- Deliver services with reasonable care and skill; and
- When acting for another, act in the best interests of that other.

These norms of conduct are fundamental precepts that are well-established, widely accepted, and easily understood.

Implication for Logical and our clients

Logical wholeheartedly supports any changes to the financial services industry that results in clients receiving less conflicted and more professional advice, ensuring that financial advisers act in the best interest of the client and better advice is provided to clients.

A key recommendation of the royal commission is the repealing of conflicted remuneration or trail commissions “as soon as practicable”. This has often prevented many financial advisers acting in the client’s best interest and allowed them to provide conflicted advice – if any advice is provided.

A number of financial advisers have retained their client's money in products that provide a trail commission not because the product is "best of breed" or it's achieving their objectives but because:

- a higher business valuation being placed on the adviser's passive income streams,
- their business costs where subsidised by the trail commission.

Although in fairness, when moving clients out of these "legacy" products, advisers need to consider if the costs associated with sell spreads and unrealised Capital Gains Tax are in the client's best interests. We do not believe Commissioner Hayne fully understood these aspects.

In order to act in your best interest and eliminate any possibility of conflicted advice, Logical is a "fee for service", privately owned financial planning firm and has been since it was established in 1993. This will not impact our service or our arrangement with you.

Overall, we believe that the recommendations and the possible changes will not have a material impact on our business and our dealings with you.

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