

The ability of consumers and small businesses to exercise their legal rights through the justice system, and whether there are fair, affordable and appropriate resolution processes to resolve disputes with financial service providers, in particular the big four banks considering:

whether the way in which banks and other financial service providers have used the legal system to resolve disputes with consumers and small businesses has reflected fairness and proportionality, including:

Answer

The banks constitutional powers automatically sways the action to them.

whether banks and other financial service providers have used the legal system to pressure customers into accepting settlements that did not reflect their legal rights,

Answer

Yes they do. The favourite ploy when decisions are obviously favouring the customer is to refer the matter to an outside legal firm. This is to force the customer to obtain legal advice when the matter is administrative and financial and beyond the lawyers expertise.

whether banks and other financial service providers have pursued legal claims against customers despite being aware of misconduct by their own officers or employees that may mitigate those claims, and

Answer

Yes, especially when the customer has been sold the wrong product or administrative process has been carried out unlawfully.

whether banks generally have behaved in a way that meets community standards when dealing with consumers trying to exercise their legal rights;

Answer

They do not. Some CEO's have given undertakings to abide by best practice guidelines and including Model Litigant Rules which are community values but would not have given those undertakings if there had not been a complaint to answer.

the accessibility and appropriateness of the court system as a forum to resolve these disputes fairly, including:

Answer

The court system favours the banks because of their Constitutional advantages and by the court right to preferred evidence and the fact they are not forced to equity accounting by the courts.

the ability of people in conflict with a large financial institution to attain affordable, quality legal advice and representation,

Answer

Prohibited by cost and the knowledge needed to fight financial institutions on administrative and financial grounds IS NOT GENERALLY AVAILABLE TO LAWYERS.

the cost of legal representation and court fees,

Answer.

Mortgages give the bank costs against the customer even when the bank loses. Courts impose indemnity costs or all costs including lawyer costs on the customer to force the customer to bankruptcy and this protects the bank as the choses involved go to the Bankruptcy Trustee as property. So even common accounting frauds are stopped by this process because the bank does not admit the situation of incorrect bank statements and do not supply them and the court accepts a certificate of debt from a bank officer.

costs risks of unsuccessful litigation, and

Answer

Bankruptcy and destroyed life of the customer.

the experience of participants in a court process who appear unrepresented;

Answer.

The average for self-litigant success is 15% in a good year with no success against banks , the banks constitutional rights, and judicial acceptance of evidentiary process in favour of the banks along with in some jurisdiction judge shopping by bank legal representatives.

the accessibility and appropriateness of the Australian Financial Complaints Authority (AFCA) as an alternative forum for resolving disputes including:

Answer.

It has a problem being seen as efficient, truthful in evidence before it and fair as it tries to mitigate bank losses.

whether the eligibility criteria and compensation thresholds for AFCA warrant change,

Answer.

Need to be increased and made more appropriate to farmers through the Code.

whether AFCA has the powers and resources it needs,

Answer.

AFCA has to refer to the bank by definition not the bank acts so is influenced by bank previous contact and familiarity.

whether AFCA faces proper accountability measures, and

Answer.

Definitely not to equity accounting to equity accounting accountable.

whether enhancement to their test case procedures, or other expansions to AFCA''s role in law reform, is warranted;

Answer

Yes.

the accessibility of community legal centre advice relating to financial matters; and
any other related matters.

Answer.

Totally inadequate. Some banks lately are offering free legal advice. This shows they need to refer matters to someone they can control. To force the customer to accept false facts, no discovery of documents, false evidence and incorrect testimony to any meeting. They can separately reward the lawyer in either professional accounts or with work or other or all ways.

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