

Dissenting report: Labor committee members

1.1 This inquiry was established to examine the impairment of customer loans as a matter of public interest. At the completion of this year-long inquiry and many hours of discussion with loan providers and banks, the committee was not able to obtain a satisfactory explanation for the spike in impaired commercial loans in the years following the Global Financial Crisis (GFC). Throughout the inquiry, loan providers consistently maintained that: they always acted in the best interests of the customer; the number of impairments was insignificant in relation to the volume of their business; and the process they initiated to recover funds was only started after the customer failed to meet their obligations. In stark contrast, many submissions suggested that bank behaviour appeared to be unusually aggressive in shutting down commercial loans. Some evidence suggested that the practices adopted by banks to handle impaired loans made it particularly difficult for loan customers to seek alternative financing and retain their businesses as a result of loan impairment.

1.2 Labor members of the committee believe that the causes of increased impairment of loans in the post-GFC period remain unclear. There are a number of complex factors, including increased pressure on financial institutions during their transition to a dramatically changed financial and economic environment post-GFC. The changed economic environment may have led to greater pressure on banks to generate higher return on equity, which could have been at the expense of consumer outcomes.

1.3 Labor members of the committee concur with most of the findings of the committee's majority report and its recommendations.

1.4 We agree with the finding that there has been a persistent pattern of abuse arising from the asymmetry of power in the relationship between lender and borrower. However, we do not agree that the evidence received in this inquiry is sufficient to conclude that there was no widespread or systemic illegal or unethical behaviour by banks.

1.5 Labor members of the committee believe that there is more evidence of banking misconduct that needs to be investigated. Recent media reports highlighting the Comminsure scandal, the tampering of loan documents (revealed on Four Corners, 1 May 2016), various financial planning scandals, bank bill swap rates and other matters indicate that there may be broader systemic issues with the behaviour of banks.

1.6 Labor members of the Committee consider that the evidence presented at the inquiry has highlighted the need for further examination of the banking and financial services sector, to examine:

- how widespread instances of illegal and unethical behaviour are within Australia's financial services industry;
- how Australia's financial services institutions treat their duty of care to their customers;

- how the culture, ethical standards and business structures of Australian financial services institutions affect the behaviour of these institutions;
- whether Australia's regulators are really equipped to identify and prevent illegal and unethical behaviour;
- comparable international experience with similar financial services industry misconduct and best practice responses to those incidents; and
- other events as may come to light in the course of investigating the above.

1.7 Labor members of the Committee believe that the handling of impaired customer loans by banks should be considered as part of any Royal Commission into the financial services industry.

1.8 Labor members of the Committee do not believe that the announcements made on the 20 April 2016 in the government's response to the ASIC Capability Review were sufficient to get to the bottom of the broader systemic issues in the industry.

1.9 The behaviour of banks and financial services companies, including that revealed in evidence to the Committee, has led to real reputational harm to Australia's financial services industry. Labor members of the Committee believe that a Royal Commission is the only way to restore confidence in the Australian financial services industry.

Recommendation:

That a Royal Commission be established to examine the banking and financial sector, and particularly:

- **how widespread instances of illegal and unethical behaviour are within Australia's financial services industry;**
- **how Australia's financial services institutions treat their duty of care to their customers;**
- **how the culture, ethical standards and business structures of Australian financial services institutions affect the behaviour of these institutions;**
- **whether Australia's regulators are really equipped to identify and prevent illegal and unethical behaviour;**
- **comparable international experience with similar financial services industry misconduct and best practice responses to those incidents; and**
- **other events as may come to light in the course of investigating the above.**

Senator Deborah O'Neill
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Ms Julie Owens MP

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