

Banking Royal Commission

Final Report Volume 1

Page	Institution	Description	Misconduct
136	AMP	Fees for no service. AMP expected to pay customers \$359.7 million	Fees for no service
141	AMP	The practice of advisers having more clients than they can monitor or advise annually was widespread: "...licensees such as AMP and its associated entities, that have provided, and continue to provide, 'buyer of last resort' arrangements for advisers who wish to leave the business, not only facilitate, but actively encourage, the treatment of client books as a tradeable asset to be valued as a multiple of annual income earned."	Inadequate processes and frameworks
142	AMP	Services provided by AMP were not commensurate with the cost to clients. For example, AMP's future advice fee fixed as a % of funds under advice. Hayne questioned the value for money for clients.	Deliberate failure to serve client best interests
144	AMP	Income from trail commissions	Inappropriate commissions
145	AMP	Identified systemic issues in relation to charging ongoing fees for no service in October 2016. ASIC reported that in 2016 AMP knew about "systemic issues in relation to the charging of ongoing fees" and failed to complete review and remediation activities.	Neglect of duties Fees for no service
148	AMP	"In June 2018, AMP made a breach notification to ASIC and APRA that, in short, it had retained, or not properly refunded premiums charged to members after their death. The breach notification identified 3,124 members with a total of \$992,902 in premium refunds owing."	Fees for no service
186	AMP	Paid \$380 million in commissions to financial advisers who purchased their life insurance products	Inappropriate commissions
191	AMP	Did not support enforced separation of product and advice (footnote 256)	Deliberate failure to serve client best interests
201	AMP	"Audits must be designed to reveal significant defaults... for too long, AMP maintained an audit system in which issues of high importance (such as not pursuing the client's best interests) could be treated as 'immaterial' when forming the overall audit grading. No departure from the central duty of an adviser can properly be regarded as 'immaterial'."	Inadequate processes and frameworks
233	AMP	Arrangements for managing conflicts did not operate effectively. "...AMP trustees endorsed plans prepared by a related party for the transfer of accrued default amounts to MySuper products. The trustees were not told about, and did not enquire about, the related party's detailed commercial consideration of the effect that the timing of transfers would have on the profits of the AMP Group. Nor did they enquire about the effect of the proposed timing on their members."	Inadequate processes and frameworks
327	AMP	AMP Life held responsibility for assessing the quality of other insurers, which presents a conflict of interest.	Inadequate processes and frameworks
96	ANZ	Unwillingness to change the mortgage broker commission framework	Deliberate failure to serve client best interests
114	ANZ	Inadequate response times for compensating customers for processing or admin errors and inadequate chain of command to deal with it.	Inadequate processes and frameworks Neglect of duties
146	ANZ	Identified systemic issues in relation to charging ongoing fees for no service in October 2016	Fees for no service
191	ANZ	Accepted that a vertically integrated business model gives rise to conflicts of interest (footnote 255). Did not support enforced separation of product and advice (footnote 256)	Deliberate failure to serve client best interests
202	ANZ	Did not do enough to share information on poor conduct with other financial institutions. "Of greater concern, when Dover asked an ANZ licensee (Millenium3) for information about Mr Christopher Harris' conduct, Millenium3 did not provide Dover with any material information even though it had made a notification to ASIC in relation to Mr Harris"	Inadequate processes and frameworks Deliberate failure to serve client best interests
248	ANZ	Attempts to sell superannuation in bank branches under a 'general advice' model may have contravened the law. "In the circumstances in which the offer was made, the customer to whom an offer was made may wrongly have assumed that the seller thought that the product was suitable for the particular customer's needs when, in fact, the seller had no basis on which to form any view about suitability."	Misleading clients Deliberate failure to serve client best interests
186	ANZ (OnePath)	\$1.02 billion in commissions to financial advisers who purchased their life insurance products	Inappropriate commissions

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61	BEN	Most home loans made through the bank's network of community owned branches. "In addition to this, (BEN) lends to 'mortgage managers' who make home loans to customers at a rate higher than the rate charged to the manager by the bank"	Inappropriate commissions
67	CBA	Conflicted remuneration: evidence showed size of mortgage broker's commission had an effect on which lender the broker recommended to the borrower	Inadequate processes and frameworks Inappropriate commissions
98	CBA	Improper due diligence and improper enforcing of a guarantee in the CBA vs Amadio High Court Case	Inadequate processes and frameworks
117	CBA	Conduct with customers who borrowed from Bankwest before it was acquired by CBA in 2008 (outlined in interim report)	Deliberate failure to serve client best interests
137	CBA	Paid \$116 million in remediation for fees for no service conduct. "Mr Matthew Comyn, CEO of CBA, accepted that charging fees for no service reflected not only an unacceptable culture and lack of professional conduct among CBA's advisers, but an unacceptable culture on the part of managers."	Fees for no service
145	CBA	Identified systemic issues in relation to charging ongoing fees for no service in October 2016. ASIC "agreed with CBA that 2 of CBA's financial advice licensees... would give an EU in relation to the charging of fees for no service"	Fees for no service
191	CBA	Accepted that a vertically integrated business model gives rise to conflicts of interest (footnote 255). Did not support enforced separation of product and advice (footnote 256)	Deliberate failure to serve client best interests
248	CBA	Attempts to sell superannuation in bank branches under a 'general advice' model may have contravened the law	Misleading clients
368	CBA	CBA used short-term variable remuneration schemes to elicit discretionary effort from front line staff ('discretionary effort' = 'the difference between what (staff) might have otherwise done... if they were paid a fixed remuneration, versus if they had at least a proportion of their remuneration' that was variable.") ... "Yet, when the expression 'discretionary effort' is unpacked, it is evident that it is used as a euphemism for selling the bank's products".	Misleading clients
405	CBA	CBA identified they did not have the capacity to manage non-financial risks, particularly in relation to operational risk and compliance. In November 2015, APRA expressed concern that CBA's operational risk framework "was not effectively identifying, escalating and addressing significant operational risks, and required CBA to take steps to improve this framework." By 2017-18, APRA still had concerns	Inadequate processes and frameworks
65	CBA (Aussie Home Loans)	Home loans - dishonest conduct by brokers that deliberately mislead clients	Misleading clients
80	CBA (Aussie Home Loans)	Resistance to change (mortgage brokers)	Neglect of duties Deliberate failure to serve client best interests
142	CBA (Bankwest)	Offering an annual review to clients was considered sufficient for an ongoing service fee to be charged, regardless of whether the client then received an annual review.	Misleading clients Fees for no service Deliberate failure to serve client best interests
129	CBA (CFPL)	Misconduct of Commonwealth Financial Planning (CFPL): inappropriate advice to clients, switching products without client permission and forging clients' signatures. CBA was forced to pay millions in compensation for the act of almost 20 advisers. Media reports suggested misconduct by planners, systemic cover up by management and inadequate offers of compensation to clients	Deliberate failure to serve client best interests
186	CBA (CMLA)	\$460 million in commissions to financial advisers who purchased their life insurance products	Inappropriate commissions

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234	IOOF	APRA proceedings suggesting IOOF and Questor Financial Services Pty Ltd breached their duties as trustees and contravened various provisions of the SIS Act by failing to exercise their powers in the best interests of the beneficiaries over the interests of all other persons." Also suggests management contravened provisions of the Act	Neglect of duties Deliberate failure to serve client best interests
128	MQG	In 2013, ASIC intervened in a class action brought against Macquarie Bank in respect of Storm Financial	Neglect of duties
65	NAB	Home loans - dishonest conduct by brokers that deliberately mislead clients	Misleading clients Deliberate failure to serve client best interests
98	NAB	Improper due diligence and improper enforcing of a guarantee in the Garcia vs NAB High Court Case	Inadequate processes and frameworks
139	NAB	CEO portrayed the charging of fees for no service as a product of "poor systems and carelessness. It was, in his words, 'just professional negligence'.... 'the number of times it happened, and the many years over which it happened, show that it cannot be swept aside as no more than bumbling incompetence or the product of poor computer systems.'"	Inadequate processes and frameworks
140	NAB	"Mr Thorburn said that retaining fees charged for a service when NAB did not provide that service was 'absolutely wrong'. Mr Thorburn accepted that where a financial adviser charges and retains fees to a client or services they know they have not provided, this is dishonest conduct." NAB assert they did not know this was happening	Fees for no service
146	NAB	NAB identified systemic issues in relation to charging ongoing fees for no service in October 2016. In May 2018, NAB made a breach notification to ASIC and APRA concerning fees it had charged to members following notification of their death." (p148)	Taking too long to identify and investigate potential breaches and failing to inform ASIC within the required 10 business days
191	NAB	Accepted that a vertically integrated business model gives rise to conflicts of interest (footnote 255). Did not support enforced separation of product and advice (footnote 256)	Deliberate failure to serve client best interests
226	NAB	"(NAB trustees) said that the duty is not an overarching obligation to act in members' best interests. They said that the covenant operated to qualify the performance of a particular duty, or the exercise of a particular power..." Hayne suggests that "any suggestion that the covenant has only limited application is not right."	Deliberate failure to serve client best interests
397	NAB	Concerns over adviser service fees to super funds were raised in December 2014, then not reported to the NAB board until August 2015. The information provided to the board was inadequate and did not make it clear that the problems were ongoing. Issue with ASIC dragged on for years and the board's actions were inadequate and suggested remediations failed to grasp the seriousness of the suspected misconduct.	Inadequate processes and frameworks
404	NAB	Accepted that NAB did not give enough attention to the management of non-financial risks	Inadequate processes and frameworks
411	NAB	Hayne stated, "I am not as confident as I would wish to be that the lessons of the past have been learned. More particularly, I was not persuaded that NAB is willing to accept the necessary responsibility for deciding, for itself, what is the right thing to do, and then having its staff act accordingly. I thought it telling that Dr Henry seemed unwilling to accept any criticism of how the board had dealt with some issues. I thought it telling that Mr Thorburn treated all issues of fees for no service as nothing more than carelessness combined with system deficiencies when the total amount to be repaid by NAB and NULIS on this account is likely to be more than \$100 million. I thought it telling that in the very week that NAB's CEO and Chair were to give evidence before the Commission, one of its staff should be emailing bankers urging them to sell at least five mortgages each before Christmas. Overall, my fear - that there may be a wide gap between the public face NAB seeks to show and what it does in practice - remains."	Neglect of duties Failure to recognise mistakes Deliberate failure to serve client best interests
136	NAB (MLC)	Charged members fees for providing the member with 'access' to advice (described in one case as 'ongoing general support services'). E.g. MLC's Masterkey Business Super charged an 'employer service fee' to its members where the employer and the adviser had agreed the fee would be charged - the member had not agreed to this	Fees for no service
149	NAB (MLC)	September 2018 - ASIC brought civil penalty proceedings against MLC and NULIS alleging contraventions of various Corporations acts in connection with the charging of advice fees	Fees for no service
186	NAB (MLC)	\$1.16 billion in commissions to financial advisers who purchased their life insurance products - the highest number of any institutions	Inappropriate commissions

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186	Suncorp	Paid \$590 million in commissions to financial advisers who purchased their life insurance products	Inappropriate commissions
56	WBC	Contravening the NCCP Act in assessing the suitability of home loans for customers in the period between 12 December 2011 and March 2015. Essentially, WBC did not take 'reasonable steps to verify the consumers financial situation'. Relates to HEM (Legal proceedings between ASIC and WBC are ongoing)	Inadequate processes and frameworks Deliberate failure to serve client best interests
80	WBC	Resistance to change (mortgage brokers)	Deliberate failure to serve client best interests
85	WBC	Offering flex commission arrangements to car dealers at the time of the Commission. While not unlawful, this could create unfairness in individual transactions. "But despite recognising this to be so, Westpac considered that it could not stop the practice because doing that 'would simply leave the market to others who did not'."	Deliberate failure to serve client best interests
144	WBC	"Yet Mr Wright gave evidence that despite clients not going to an adviser for ongoing advice, most clients of authorised representatives of the financial advice businesses conducted by Westpac's advice licensees (Magnitude and Securitor) would be on an ongoing fee arrangement"	Fees for no service
146	WBC	Identified systemic issues with one adviser only in relation to charging ongoing fees for no service in October 2016	Fees for no service
186	WBC	Paid \$697 million in commissions to financial advisers who purchased their life insurance products + further \$158 million in grandfathered commissions within superfunds	Inappropriate commissions
191	WBC	Accepted that a vertically integrated business model gives rise to conflicts of interest (footnote 255). Did not support enforced separation of product and advice (footnote 256)	Deliberate failure to serve client best interests
201	WBC	"...too often, bad audit results had no, or no significant, consequences for the adviser... for too long, Westpac maintained a consequence of management scheme under which point deductions for poor audit results were erased before the next audit would fall due. A system of that kind did nothing to penalise bad work and nothing to encourage better work".	Inadequate processes and frameworks
202	WBC	Did not do enough to share information on poor conduct with other financial institutions. "When Dover Financial Services asked Westpac for information about the conduct of Mr Andrew Smith, Westpac said only that there was an ongoing investigation and that Westpac had 'concerns' about Mr Smith's conduct".	Neglect of duties
229	WBC	Dual regulated entities conflicts with trustee's performance of its duties to its members	Deliberate failure to serve client best interests
302	WBC	Removal of the words 'on any terms' from life insurance contracts meant the insurance was not required to demonstrate that it would not have entered into a policy on alternative terms had the non-disclosure or misrepresentation not occurred	Misleading clients Deliberate failure to serve client best interests
141	WBC (BT Financial)	Describing the services required under ongoing service fees as 'strategic advice and reassurance' has a lack of detail that leads advisers to fail to offer appropriate service to clients.	Deliberate failure to serve client best interests