Five years on: Were advisers the unintended victims of the RC?

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Commissioner Kenneth Hayne handed the final report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry to then-treasurer Josh Frydenberg on Friday, 1 February 2019, a little over a year after proceedings kicked off.

It didn't take long for the government to respond, taking just a single weekend to compile a response and announce it would take action on all 76 recommendations.

The work of implementing these recommendations is still ongoing. The current requirement for all relevant providers to be registered with ASIC, for example, is a direct result of the Hayne royal commission.

"The government's principal focus is on restoring trust in our financial system and delivering better consumer outcomes, while maintaining the flow of credit and continuing to promote competition. These objectives are vitally important to the health of the economy and therefore to the health of our community," said Mr Frydenberg in the response.

He added: "My message to the financial sector is that misconduct must end and the interests of consumers must now come first. From today the sector must change, and change forever."

It certainly has.

The most obvious fallout was the almost complete exit of the institutions from providing advice – particularly in the way they previously had.

Indeed, many of the breaches of trust commissioner Hayne and the government refer to came from these institutions, most notably in the form of fees for no service.

Less recognised by the broader Australian public, though keenly felt by those within the sector, is the exodus of advisers.

Battered by the ensuing years of changing regulations, red tape, and tarred with the same brush as those which caused the issues to begin with, the advice profession plummeted from a cohort of around 28,000 to just 15,646 as of 1 February – the anniversary of Mr Hayne's report.

Writing on Advisely last week, Phil Anderson, general manager policy, advocacy and standards at the Financial Advice Association Australia (FAAA) reflected on the royal commission's impact, noting the "drastic and deeply disturbing" consequences for the financial advice profession.

"I recently read a 2019 research paper by a couple of academics which stated that 'the Financial Services Royal Commission (2019) describes advisers as generally under-educated, unprofessional, providing poor advice, having poor ethics and conflicted remuneration'," he said.

"In reality, it didn't say these things, and it was not possible for the royal commission to conclude these things as it was a royal commission looking into misconduct. It had no interest in looking at good conduct or clients who got good advice. During the two weeks of hearings in April 2018 where financial advice was the focus, only one adviser appeared on the stand and only 10 advisers were the subject of case studies."

As he pointed out, it is difficult for an inquiry into misconduct to highlight the positive impact delivered by the majority of professional advisers. How could it possibly take this into account when faced with such gross misconduct within the broader industry?

Peter Johnston, executive director of the Association of Independently Owned Financial Professionals (AIOFP), said that the royal commission managed to bring the dodgy practices out into the sunlight.

"The royal commission's greatest legacy for the advice industry and consumers in general is exposing the institutions' 'fee for no service' practices that lead to their departure from advice in disgrace," Mr Johnston told ifa.

"Typically, no actual institutional person was ever charged with these fraudulent activities but it led to massive consumer compensation payments thanks to ASIC action.

"The only downside is independent advisers and their clients are left with institutional specific compliance measures that are no longer relevant and expensive to implement i.e. consent forms."

Mr Anderson added that the royal commission is now "something in the rear-view mirror", though not without lasting effects.

“The environment has certainly changed significantly since that period, even though the impact and consequences will linger for a long time,” Mr Anderson said.

“Of course, the royal commission recommendations are another matter entirely; some of them have added greatly to the cost and complexity of running an advice practice. That is another story.”

Regulatory change within financial advice did not begin and end with the royal commission – a state of flux has been the default over at least the last decade, if not considerably longer. It shows no signs of stopping just yet, with the Quality of Advice Review reforms just getting started, but perhaps there is some hope of some equilibrium in the near future.

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