

## Chapter 6

### Bank culture

6.1 This chapter will turn to issues relating to broader bank culture, and provide suggestions on measures to improve the current system.

#### Importance of bank culture

6.2 During the inquiry the committee received evidence emphasising the importance of allowing farmers to exit with dignity in situations where foreclosure is unavoidable.

6.3 For example, the ABA commented:

The [banking] industry will continue to work with government and primary producer organisations on what can be done to support business owners to exit the industry with dignity and with as much equity as possible when that is unfortunately the only option.<sup>1</sup>

6.4 The committee also received evidence indicating that the culture of a bank is an important factor in ensuring that farmers are treated with dignity, particularly when they are experiencing financial difficulties. For example, both Westpac and the ANZ informed the committee that the culture of an organisation was important in this respect.<sup>2</sup> Additionally, these two banks were identified by Mr Andrew McLaughlin from his years consulting in the agribusiness space as banks 'leading the way' and making positive cultural changes.<sup>3</sup>

6.5 Mr Ben Steinberg, Head of Lending Services for the ANZ noted:

Can I say, perhaps with some humility, that we [ANZ] think we're doing everything we can in order to address the concerns that have arisen over the last few years. We're listening to people like Andy McLaughlin and a lot of other people around the concerns out in the industry. Like any good business, we're in a process of continuous improvement. We are looking at our processes and our procedures every single day. We are looking at ways to change those so that we can be better banks every day, so that we can understand the issues that our customers face, so that we can deal with

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1 Ms Anna Bligh, Chief Executive Officer, Australian Bankers' Association, *Committee Hansard*, 11 August 2017, p. 62.

2 Mr Mark Bennett, Head of Agribusiness, ANZ, *Committee Hansard*, 11 August 2017, p. 11; Mr Gwyn Morgan, Head of Credit Restructuring, Credit Risk, Westpac, *Proof Committee Hansard*, 18 September 2017, p. 48.

3 Mr Andrew McLaughlin, private capacity, *Committee Hansard*, 11 August 2017, p. 8.

those issues with respect and, as was pointed out earlier before, so that we can ensure the dignity of our customers is respected.<sup>4</sup>

6.6 Mr McLaughlin provided the committee with a personal insight about how crucial it is to allow farmers to retain their dignity, even when exiting the industry:

We understand that the bank is entitled to get its money; we understand that the receiver have got the job – but they have an obligation, a duty of care, to ensure they are not only representing the banks but also ensuring that he farmers get a return. Mr Forrest [a former Federal Member of Parliament] used to say to me, 'Andy, if we can go down to that bank and we can do a deal, and that farmer can walk out with a dollar in his pocket and with his dignity, that's a bloody good start'.<sup>5</sup>

6.7 The ABA acknowledged that bank culture can play a pivotal role in addressing behaviour that is less than adequate. As Ms Bligh observed:

The banking industry acknowledges that bank conduct, culture and communication needs to be improved. Evidence to this inquiry has highlighted this need.<sup>6</sup>

### ***Committee view***

6.8 Evidence received by the committee indicates that although the corporate culture of a bank may have improved in some areas, the reflected values demonstrated by individual bank employees at the customer interface has in some instances fallen significantly short of these ideals. In such instances, farmers and their families are not afforded the dignity they deserve.

6.9 As such, the committee believes it is imperative that banks invest in ensuring that the corporate culture, often so eloquently espoused by senior or executive bank leaders, is actually demonstrated by frontline and middle management bank staff during day-to-day interactions with customers.

6.10 Throughout the inquiry the committee heard numerous senior bank representatives champion their institution's cooperative and empathetic approach to dealing with customers, as well as emphasise their understanding of and commitment to their agribusiness customers.

6.11 While the committee was encouraged to hear these sentiments, and also to hear positive third-party reports regarding banks such as Westpac and the ANZ, a

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4 Mr Ben Steinberg, Head of Lending Services, Corporate and Commercial, ANZ, *Committee Hansard*, 11 August 2017, p. 13.

5 Mr Andrew McLaughlin, private capacity, *Committee Hansard*, 11 August 2017, p. 4.

6 Ms Anna Bligh, Chief Executive Officer, Australia Bankers' Association, *Committee Hansard*, 11 August 2017, p. 61.

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positive corporate culture is of no use to customers if it is not followed or respected by the staff farmers must actually deal with. Primary producers who have been verbally abused, pressured, had their trust violated, or subjected to other intimidating behaviour from bank staff take little comfort from these broad assurances from bank executives.

6.12 The committee considers that it is crucial that banks take more meaningful responsibility for the actions of their middle management and frontline staff in order to ensure that primary production customers are treated with dignity, particularly during financial difficulties. Banks must invest in comprehensively assessing staff behaviour, take complaints seriously, and where necessary, take remedial action against staff who behave inappropriately.

### **Recommendation 22**

**6.13 The committee recommends that the Australian Bankers' Association ensure that banks offer better training and more comprehensive supervision of bank frontline and management staff to ensure that they deal fairly and reasonably with farming customers and have a sound understanding of the unique characteristics of primary production enterprises.**

### **Code of Banking Practice**

6.14 The ABA Code of Banking Practice (the code) sets standards for fairness, transparency, behaviour and accountability for banks, beyond legislative requirements.<sup>7</sup>

6.15 The code was independently reviewed in 2017 by Mr Phil Khoury, and the ABA informed the committee that it was in the process of redrafting the code, with the aim to publish a new version by the end of 2017. For the first time the Australian Securities and Investments Commission will be approving the code.<sup>8</sup>

6.16 Ms Bligh outlined further details on the first rewrite of the code since 1993:

This is a document by which banks need to be held accountable, and it can't function as that unless customers are able to easily understand it and read their rights as customers.<sup>9</sup>

6.17 When queried by the committee on the extent to which the interests of farming or agricultural businesses will be accommodated in the code, Ms Bligh

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7 Australian Bankers' Association, *Submission 12*, p. 4.

8 Ms Anna Bligh, Chief Executive Officer, Australia Bankers' Association, *Committee Hansard*, 11 August 2017, p. 63.

9 Ms Anna Bligh, Chief Executive Officer, Australia Bankers' Association, *Committee Hansard*, 11 August 2017, p. 63.

responded that there were a number of new provisions proposed for the code that went directly to small businesses, including farms and agribusinesses.<sup>10</sup>

6.18 The ABA submission set out in more detail the parts of the new code that would assist in creating positive relationships between banks and farmers. For example, under the new code, the banks will:

- provide clearer information to farmers about credit products and lending decisions;
- give farmers more notice when loan contracts change;
- give farmers more time to arrange alternative finance when a facility is not going to be renewed;
- outline how banks will assist farmers experiencing financial difficulty;
- develop better guidelines on valuation practices and how and when they can appoint investigative accountants and receivers, administrators and liquidators;
- reduce the number of non-monetary covenants in loan contracts and credit products for small business and agribusiness customers (including the removal of all general adverse material change clauses and the reduction of the number of specific events of non-monetary default entitling enforcement action); and
- explain remaining covenants in plain language and include a summary of covenants with loan contracts for small businesses.<sup>11</sup>

### *Committee view*

6.19 The committee is of the opinion that the ABA has a significant role to play in setting the tone of bank culture in Australia. To that end, the committee commends the ABA for its work in rewriting the Code of Banking Practice, and looks forward to seeing the above changes reflected in the new, ASIC-approved version.

6.20 The committee urges the ABA adopt all relevant recommendations of this report and take into consideration the unique characteristics of agribusiness and primary production lending when rewriting the code.

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10 Ms Anna Bligh, Chief Executive Officer, Australia Bankers' Association, *Committee Hansard*, 11 August 2017, p. 63.

11 Australian Bankers' Association, *Submission 12*, pp. 5–6.

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### **Recommendation 23**

**6.21** The committee recommends that the Australian Bankers' Association adopt all relevant recommendations of this report when redrafting the Code of Banking Practice.

### **Recommendation 24**

**6.22** The committee recommends that the new Code of Banking Practice currently being drafted by the Australian Bankers' Association specifically recognise the operating environment of primary producers.

### **Recommendation 25**

**6.23** The committee recommends that the Australian Bankers' Association stipulate that banks must draw customers' attention to the Code of Banking Practice when establishing new loans.

## **Additional guidance for primary producers**

6.24 Throughout the inquiry numerous primary producers expressed disbelief and disappointment that their bank managers had broken their trust, or not acted in their best interests. For example, some farmers were incredulous that they had been pushed to borrow or spend more money than they required or had requested.<sup>12</sup>

6.25 Mr Denis McMahon, a senior lawyer from Legal Aid Queensland provided the committee with an observation around the breach of trust between primary producers and their bank staff:

In relation to the trust issue, I've had clients say that when they were obtaining their loans they were told by the bank manager that certain things would happen. For example, if they were going to be offered market rate, market facilities, for three to five years, the bank manager had indicated that those would just be rolled over at the time, and the clients, trusting the bank manager, took those facilities. Then, when the facilities came to expire, the banks didn't honour their word.<sup>13</sup>

6.26 Mr McLaughlin noted the demise of the once strong personal relationship between a farmer and his or her local rural bank:

If you go back to the old system, where the local bank manager had the ability to look at loans, review them and approve them internally, he was

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12 See for example comments by Michael Doyle, private capacity, *Proof Committee Hansard*, 14 September 2017, pp. 1–2; see also Mr Bradley Clark, private capacity, *Proof Committee Hansard*, 19 July 2017, p. 23.

13 Mr Denis McMahon, Senior Lawyer, Farm and Rural Legal Service, Legal Aid Queensland, *Committee Hansard*, 2 August 2017, p. 18.

very hands-on with the farmer... They had a family relationship, where they went to the farm and sat down to have a coffee and a scone or whatever else. That was very special, because then the farmer trusted his banker and knew he could rely on him tough times.<sup>14</sup>

6.27 Additionally, Ms Scott from the ASBFEO observed that some individuals viewed their banking relationships in a different light to their bank managers:

They have kind of treated their bank as partners of people that they are in a strategic business relationship with. They have known them for a long time whereas the game has changed; it is not like that anymore. They are not like their doctor or their dentist – somebody that they hold up as a professional in high esteem who is going to guide them. The bank is running its business. It is almost like cutting through that myth of, 'The bank will support me no matter what' to the reality of: 'If you face this situation going forward, will you be able to carry the business through or not?'<sup>15</sup>

6.28 The committee also heard that the geographical dislocation between bank managers and farmers impedes the relationship between the two parties. For example, Mr Colin Nicholl from the Western Australian Farmers Federation submitted:

At one stage the local bank manager used to be part of our community. He was the man that made a lot of the decisions. He was empowered to lend money up to certain sums, and that varied from bank to bank and from the experience of manager to manager. Anything beyond that he passed higher up to the people further up the bank with a recommendation. Today most of those decision-makers are no longer in the local community – they are based in regional towns – and they have no idea of who their clients are or how their businesses are going.<sup>16</sup>

### ***Committee view***

6.29 Due to the changed nature of modern banking, the committee is of the opinion that primary producers would benefit from assistance in regard to financial literacy, business management and resilience training.

6.30 The days where customers could confidently trust their bank manager to always act in their best interests are gone. As such it is even more imperative that farmers are equipped with adequate financial literacy skills to assist them in making informed decisions about their businesses, and allow them to better assess the value of advice given to them from financial institutions and related third parties.

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14 Mr Andrew McLaughlin, private capacity, *Committee Hansard*, 11 August 2017, p. 9.

15 Ms Anne Scott, Principal Advisor, Australian Small Business and Family Enterprise Ombudsman, *Proof Committee Hansard*, 18 September 2017, p. 33.

16 Mr Colin Nicholl, Corrigin Lake Grace Zone Councillor, Western Australian Farmers Federation, *Proof Committee Hansard*, 19 July 2017, p. 4.

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## Recommendation 26

**6.31 The committee recommends that the government establish tailored initiatives that provide primary producers with guidance on financial literacy and business management, and resilience training.**

### Banking royal commission

6.32 As noted earlier in this report, the committee's inquiry unfolded amid growing concerns about alleged misconduct in Australia's banking sector and increasing calls for a royal commission. Recognising that it will be the only way to restore public faith in the sector, the Turnbull Government announced the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry on 30 November 2017.<sup>17</sup> Draft terms of reference released by the government cover a range of issues, including, in the context of this inquiry:

- culture and governance practices in the sector;
- compensation and redress for consumers who have suffered; and
- the overall efficacy of the current legal and regulatory framework as it relates to banking and financial services.<sup>18</sup>

6.33 The committee notes that had the Turnbull Government not acted to address the misconduct of the banking and financial services industry by establishing the royal commission, the committee would have made a strong recommendation in this report for such an inquiry.

6.34 Although the timing of the royal commission will not enable this committee to be informed by any evidence which may emerge, the committee nonetheless welcomes the announcement and the Prime Minister's commitment to the Australian people:

The Inquiry [royal commission] will consider the conduct of banks, insurers, financial services providers and superannuation funds (not including self-managed superannuation funds). It will also consider how well equipped regulators are to identify and address misconduct. It will not inquire into other matters such as financial stability or the resilience of our banks.

This will be a sensible, efficient and focussed inquiry into misconduct and practices falling below community standards and expectations. Most Australians are consumers of banking and financial services, and we all

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17 The Hon Malcolm Turnbull MP, Prime Minister, *media release*, 30 November 2017, available at: [www.pm.gov.au/media/royal-commission-banks-and-financial-services](http://www.pm.gov.au/media/royal-commission-banks-and-financial-services) (accessed 30 November 2017).

18 Draft terms of reference available at: [www.pm.gov.au/sites/default/files/media/terms-of-reference.pdf](http://www.pm.gov.au/sites/default/files/media/terms-of-reference.pdf) (accessed 30 November 2017).

have the right to be treated honestly and fairly by banking and financial services providers.<sup>19</sup>

6.35 At this early stage, however, it is impossible to say whether any recommendations that may arise as a result of the royal commission will be sufficient to drive positive change for primary producers who have been severely let down by their experience with financial institutions. This being the case, the committee emphasises the importance of the evidence brought to light by this inquiry and urges the government and other stakeholders to consider and implement the recommendations within this report without unnecessary delay.

6.36 Finally, the committee urges the royal commission to fully consider the evidence published by this committee in the context of its inquiry.

### **Recommendation 27**

**6.37 The committee recommends that the newly established Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry fully consider the evidence published by this committee in the context of its inquiry.**

**Senator Pauline Hanson**

**Chair**

**Senator John Williams**

**Deputy Chair**

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19 The Hon Malcolm Turnbull MP, Prime Minister, *media release*, 30 November 2017.