

## Objectives of Round 5 of the Royal Commission

On opening, Senior Counsel Assisting, Michael Hodge (MH), outlined the three key issues:

**1. Account management** – the ways in which trustees or related entities cause members to join or stay with their fund, including:

- The selling practices of banks in relation to the superannuation products offered by their related party trustee.
- The making of payments by industry funds to the organisations that own the trustee or are affiliates of the trustee to assist with the marketing of their funds.
- The continued payment of grandfathered commissions by retail funds.
- The approach of trustees to members who have multiple superannuation accounts, either within the same fund or in a different fund.

**2. Use of funds** – how trustees monitor the use of members' funds, including:

- Payment of fees for services not rendered (including financial advice).
- The monitoring of the performance of the product offering and its attribution.
- The statutory obligation to offer MySuper, a low fee alternative.
- The transfer of accrued default amounts (ADAs) to a MySuper product.
- The low cash returns of certain retail funds.
- The marketing and advertising spend by retail funds.

**3. Governance** – understanding governance arrangements for trustees, including:

- Arrangements for the monitoring of advice provided by financial advisers but paid for out of the assets of the super fund and, therefore, subject to the sole purpose test and the trustees' 'best interests' duties.
- Related party investments where the manager derives benefits not passed to the members.
- Use of a dual regulated entity where one company is both the trustee of the super fund and the responsible entity of a managed investment scheme.
- The outsourcing of functions to other parts of the retail group in a way that prevents the trustee from having any realistic prospect of being able to identify and monitor breaches and be satisfied that it is acting in the best interests of members.
- The manner of and the rights to the appointment of directors to the boards of corporate trustees of industry funds, including the paucity of member-directed appointments and independent directors.

Clearly, a mammoth task, given 14 complex issues to cover over ten days, plus the accessibility of super to remote and indigenous communities.