

CSLR– Lack of Impact Analysis and FOI Response

Whilst our primary concerns about the Government’s design and implementation of the CSLR has been the retrospective application of the scheme and the Government only paying for the first three months, rather than 12 months as initially committed, we are also angry about the government’s failure to appropriately disclose what the CSLR would cost and what the likely implications and consequences were. There was no disclosure at the time the legislation was passed, and as we set out below, there has been a complete failure to provide the expected disclosure that comes with complying with the obligations related to Impact Analysis.

Whenever legislation is introduced into the parliament, the Department and Minister responsible are required to undertake an Impact Analysis to consider the design options, benefits, costs and the consequences for relevant parties as part of that process. This is a really important part of the legislative process. One of the key elements is to assess the likely cost of the reform for those impacted, in the form of a Regulatory Burden Estimate table. This is an important step in helping to avoid significant unintended consequences – such as what we have seen play out with the impact of Dixon Advisory on the CSLR. The responsibility for the oversight of Impact analysis sits with the Office of Impact Analysis (OIA) in the Department of Prime Minister and Cabinet (PMC). Since the middle of August 2024, through the Freedom of Information (FOI) process, we have been trying to get to the bottom of what the Impact Analysis for the CSLR demonstrated. Our efforts have been subject to ongoing delay and now that we finally have the documents, many gaps and questions remain.

Failure to meet Impact Analysis and Freedom of Information Obligations

The [Australian Government Guide to Policy Impact Analysis](#) sets out the seven core questions of Impact Analysis including ‘What is the likely net benefit of each option?’ and further states ‘Policy interventions have both costs and benefits. Impact Analysis obliges you to assess the benefit of the proposed intervention against the costs imposed’.

The Office of Impact Analysis also has a guide on [Impact Analysis Equivalents](#), where a similar exercise may have been undertaken that could be deemed to be equivalent to an Impact Analysis, such as a Royal Commission. This alternative pathway is still subject to substantial obligations including a certification requirement by an agency head, deputy secretary, or Chief Executive as having addressed all seven Impact Analysis questions. All of this needs to be done based upon current knowledge, not historical understanding. The government took this Impact Analysis equivalence option with the CSLR legislation, on the basis of the Hayne Royal Commission final report, despite the fact that the Hayne Royal Commission final report had been completed more than four years before the CSLR legislation was tabled, and three years before Dixon Advisory went into administration.

Impact Analysis Equivalentents are assessed by the Office of Impact Analysis (OIA) for relevance to the recommended option(s), and for the coverage of the 7 Impact Analysis questions conducted. There are also important obligations with publishing the results of the Impact Analysis including:

The Impact Analysis Equivalentent document/s (Review and any required additional analysis), your agency certification letter, and the OIA decision (including any commentary on the quality of analysis) will be published on the [Department of the Prime Minister and Cabinet's website](#), following the announcement of the associated policy decision.

We went looking for the CSLR Impact Analysis documentation on the OIA website, however there was nothing there.

We then took the action of requesting this information through a Freedom of Information (FOI) application, which we made on 18 August 2024. We thought that this would be a straight forward exercise, as we were requesting documents that were required to be prepared and were required to be published. Under the FOI law, the government had 30 days to respond. As it turned out, it took substantially longer.

On 13 September 2024, we were asked to approve a 30-day extension to allow the Department of Prime Minister and Cabinet (PMC) more time to respond. Then, a month later, we got a letter to say that our application had been declined as it would involve too much work. The justification included the following statement:

Initial searches using the keywords "CSLR", "Compensation scheme of last resort", "25101 Treasury Last Resort", "Financial Services Compensation Scheme of Last Resort Levy Bill" and "[2019 Hayne Royal Commission Final Report](#)" in the Office of Impact Analysis records identified 188 items potentially relevant to your request.

We hadn't asked for every document related to the [2019 Hayne Royal Commission final report](#), however we were able to agree on a revised narrower scope, and once again, we hoped that things would be relatively quick from that point.

It wasn't, and in fact, we had to follow-up the Department of PMC on five separate occasions before we finally got our [FOI response](#) on 7 January 2024, some four and a half months after our initial request.

So, what did the [FOI documents](#) reveal?

The answer is, virtually nothing. The 43 page document includes correspondence going back as far as 2017, however there were no numbers of relevance. Only one document related to the

current Government's time in office, which was provided to the OIA in March 2023, before the legislation was tabled, and it has been largely redacted. This is hard to believe, in the context of the exploding Dixon Advisory scandal, and considering that the government had made meaningful changes to the previously drafted legislation, including doubling the sector cap for the financial advice sector, and paying for only three months of the scheme's operation instead of one year.

It appears that either effectively no analysis was done of the cost of the CSLR for the financial advice profession, or that steps have been taken to avoid disclosing what was done. This is a totally unsatisfactory outcome. We expect the Government and the Parliament, when proposing legislation with broad implications, to go through the proper process and do the work necessary to understand what impact it will have.

In actual fact, the likely cost of the Dixon Advisory failure alone appears likely, at this point, to exceed \$338m, with the financial advice profession footing a bill of around \$135m, on current estimates. The Dixon Advisory issues were well known at the time this legislation was introduced to parliament, and yet no attempt was made to cost these, and no mention of the Dixon Advisory failure was made in the Explanatory Memorandum that accompanied the Bill.

We are deeply disappointed by both the Impact Analysis and the Freedom of Information processes. We are calling for the government to acknowledge the scale of the exposure the financial advice profession faces and undertake an **urgently needed** review of the CSLR legislation, to ensure that the CSLR is fairly and sustainably funded.

We expect much more of our Government. We all should expect much more.