Is a royal commission into banking required? I think not. There have been many problematic incidents adversely affecting customers in the banking and financial sector in Australia – although whether they are more frequent and more substantive than elsewhere is open to question.

Moreover, examining those incidents, determining whether there are systemic causes, and identifying possible solutions can be done in simpler and potentially more effective ways. Indeed, even to the extent that the objective is to pinpoint responsibility for past wrongdoings, it is not clear that a royal commission has advantages over investigations by well-resourced and empowered financial regulators.

Royal commissions are likely to work best when there is one specific major issue to be addressed or where there is some substantive matter of policy formulation on which a primarily legal, inquisitorial, analysis can shed light. The current and recent concerns involve a wide range of different types of problems resulting in financial consumer detriment.

They involve actions of individuals within various types of financial organisations as well as how the objectives, culture, ethics and governance of the organisations themselves encourage, induce or incentivise particular types of behaviour.

These are not topics that are best addressed from a primarily legal perspective, or analysis of which requires the trappings and powers, and costs, of a royal commission. Rather, there is a need for analysis of what gives rise to these perceived problems and what policy (legislative or regulatory) changes might be made to reduce such problems.

And ultimately, some form of (at least implicit) cost-benefit analysis is warranted since the bad behaviour of concern is a byproduct of institutional arrangements and structures for providing financial services and products to meet the needs of consumers. Designing policy to balance efficiency and fairness in provision with mitigation of adverse effects is not a simple task.

Identifying problems and designing policy solutions can be done either via existing financial regulators with their existing (or enhanced) powers or through some other form of less costly

and disruptive method of inquiry.

The recent David Murray-led Australian Financial System Inquiry (of which I was a member) examined the financial sector from a very broad perspective. Its terms of reference included reference to corporate governance and implications for outcomes for consumers of financial products and services consumers. But this was only one item on a long list of issues required to be investigated within a very short time frame.

The Murray Inquiry made a number of recommendations related to improving outcomes for consumers of financial products. One could argue that it would make sense to see whether the recommendations of the Murray Inquiry (once fully implemented), together with ongoing changes in global financial regulatory standards, improve the performance of the financial sector in this regard before undertaking another major review.

On the other hand it might be argued that the Murray Inquiry did not, reflecting the constraints of its terms of reference and short time frame, delve far enough into issues of ethics, culture, and governance. While these were front of mind in its deliberations, its approach was to design policy recommendations which would induce better outcomes.

These included addressing incentives created by conflicted remuneration arrangements, introducing manufacturer and distributor responsibilities for appropriate design and marketing of financial products and services, and improved resourcing and powers of financial regulators. That approach reflected a view that “good” ethics and culture cannot be created by regulation, that they are the responsibility of the leadership of financial institutions, but that policy settings can influence incentives to create and maintain good ethical standards and culture.

If it is believed that the problems are more deep seated, then perhaps further inquiry is warranted – but on topics which hardly warrant or need a royal commission. A number of issues come readily to mind. One is whether enforced structural separation of financial institutions would facilitate improved governance, risk-taking, staff-customer interrelationships, and remuneration and incentive structures.

Another is whether requiring directors of banks to put interests of depositors ahead of shareholders (much as occurs in insurance where policy holders interests are legally accorded

priority). Yet another would be what increase in penalties for wrongdoing and increased resourcing for investigation by regulators would appropriately limit wrongdoing while not unduly harming efficient and innovative supply of financial services.

These types of issues require “research” more than “inquiry”. They are not the sorts of questions that a royal commission process is suited to answer. Calling for a royal commission looks to have been a smart political move. But like the Abbott Government’s Royal Commission into Trade Unions it would be tainted by political overtones associated with the inquisitorial nature of the process.

Far better to find an approach that will be seen to reflect the more explicit analytical approach necessary to answer the very complex questions involving the interplay between ethics, culture, incentives, governance and behaviour.

Kevin Davis was a member of the Australian Financial System (Murray) Inquiry which reported to the Treasurer in November 2014

Read more http://theconversation.com/why-australia-does-not-need-a-royal-commission-into-the-banking-industry-57558