



# Australian Citizens Party

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## MEDIA RELEASE

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### **If they won't compensate Sterling First victims, they won't compensate anyone**

*The Citizens Party has a message for the hundreds of thousands of financial victims in Australia:*

*If Labor won't compensate the elderly, sick and dying Sterling First victims who all face eviction and homelessness due to the systemic failings of the regulator (described below), you can't rely on them to compensate anyone.*

*On 4 April Labor's Shadow Financial Services Minister Stephen Jones met with some Sterling First victims in Mandurah, WA. Before he arrived, one of the victims wrote on Facebook in anticipation: "Senior politicians do not invite over 100 people to a 2 hour meeting a few weeks out from an election to tell them 'sorry I cannot help you'."*

*Except that is what Jones effectively did. He told the victims nothing more than Labor had told them for two years. He also made the entirely false statement that no party could commit to making an ex gratia payment to the victims.*

*This is not true. The government of the day can make any payment it chooses, through an Act of Grace payment from the Department of Finance. If the Cabinet acknowledges that ASIC's failings caused the Sterling disaster, they could choose to make restitution through such a payment. The only reason they wouldn't commit to making a payment is that they don't want to acknowledge ASIC's failures, which would set a precedent that has consequences: 1) it would require them to overhaul ASIC; 2) it would be a precedent for many more financial victims who were also damaged by ASIC's regulatory failures.*

*The Citizens Party is calling on all financial victims around Australia to rally behind the Sterling victims, and demand they be compensated, because if we can win compensation for them we can set a precedent that applies to many, many more victims.*

*Call Labor's Shadow Finance Minister Stephen Jones to tell him Labor's policy is unacceptable, and they must commit to paying the full compensation: (02) 4297 2285*

*The following article written by researcher Melissa Harrison, which was handed out at the Stephen Jones meeting, clearly explains why Labor's current policy is zero help for the Sterling victims.*

### **Will a Labor government leave elderly Australians behind?**

The elderly victims of the Australian Securities and Investments Commission's (ASIC) regulatory failure that led to the Sterling First scandal have been forced to march in the streets to try to bring awareness to their plight. This is because their desperate letters and phone calls have been ignored by Prime Minister Scott Morrison, Treasurer Josh Frydenberg and their local representative, Liberal MP Andrew Hastie. Despite national media coverage of the scandal and a damning Senate Inquiry, which expressed "serious concerns about the performance of ASIC with respect to the Sterling Group" because ASIC was late to investigate even though it "had sufficient evidence and grounds for concern", the Morrison Government continues to ignore the victims' pleas for compensation.

In his 31 March Budget Reply, Labor leader Anthony Albanese promised that if he is elected Prime Minister, his government will not leave Australians behind. Labor's plan for aged care recognises the importance of "security, dignity, quality and humanity" in caring for elderly Australians. Mr Albanese stated that "our older Australians aren't just a number, they aren't a burden. They are people who deserve respect, courtesy, and the best possible attention".

Neglect of our elderly is not just confined to aged-care facilities: for decades, elderly Australians, such as the Sterling First victims, have been systematically targeted for exploitation by financial predators, while ASIC has failed to act to protect these vulnerable consumers. Overwhelming evidence presented to the Senate Inquiry into the Sterling First scandal demonstrated ASIC's negligence and maladministration, which can rightly be regarded as enabling elder abuse.

In around 2015, the Sterling First group began raising funds from retirees who wanted to downsize their home, convincing them to pay a lump sum of \$250,000-\$300,000 as up-front rent for the rest of their lives. By the time Sterling had collapsed into administration in 2019, more than 130 elderly tenants had lost millions in life savings and now face eviction from their homes. The pensioners signed lease agreements as renters, and were told their money was held safely in a trust. They had no idea that their rent money had been dumped into Sterling's convoluted managed investment scheme. Elderly victims had no idea that they were considered "investors".

But ASIC knew.

Explosive evidence and testimony submitted to the Senate Inquiry revealed that:

- ASIC knew there had been numerous complaints about Sterling entities for years, including red flags raised by ASIC's own staff as far back as 2015, but repeatedly decided on no further action.
- ASIC knew that Sterling entities had likely engaged in misleading and deceptive conduct, and knew there were legal problems with Sterling's promotion of its "novel" product.
- ASIC knew that Sterling entities had possibly contravened corporate law and that there were serious material nondisclosures of the risks of the scheme.
- ASIC knew that there was "material uncertainty" over the group's solvency in late 2017, but waited six months to commence a formal investigation, during which time \$11 million more was taken.
- ASIC knew that Sterling's ringleaders were involved in numerous financial scandals and Ponzi schemes dating back to the 1990s, costing mum-and-dad investors *hundreds of millions of dollars* through exploitative and deceptive financial practices.

During the Senate Inquiry, ASIC was only interested in covering up its appalling negligence. ASIC chair Joe Longo's most common refrain was, "I'm not trying to make excuses, but...". ASIC's only concern was to avoid any acknowledgement of its negligence and maladministration or finding of culpability.

### **CSLR is NOT a solution for Sterling First victims**

Following a recommendation of the 2018 banking royal commission, the Morrison Government announced the yet-to-be legislated Compensation Scheme of Last Resort (CSLR). But the CSLR is not a genuine solution for Sterling First victims.

For starters, the CSLR's \$150,000 cap is too low to properly compensate most victims. In addition, the CSLR excludes managed investment schemes and therefore excludes the Sterling victims from receiving any compensation under the CSLR.

Moreover, even if a future Labor government expands the CSLR and lifts the compensation cap, CSLR payments will only be awarded to victims if they receive a favourable determination from the Australian Financial Complaints Authority (AFCA). However, a controversial court ruling means that numerous Sterling victims are not eligible to access AFCA. AFCA has a massive backlog of 1,165 cases waiting for the CSLR to finally be established. Elderly Sterling victims cannot afford to wait while bureaucrats catch up.

There are also deeply troubling questions over AFCA's independence, fairness and competence. AFCA's fundamental structure was designed by the banking industry. Therefore, it is no surprise that, even if Sterling victims do get an AFCA hearing, past history shows that AFCA decides in the financial firm's favour 78 per cent of the time.

AFCA:

- Is funded by the financial industry. Many of its decision-makers are ex-industry.
- Is a private company, not a government department or regulator. It does not have parliamentary oversight. It does not have to appear before Senate Estimates. It is not subject to Freedom of Information laws. The Administrative Appeals Tribunal does not have jurisdiction to review AFCA decisions. All AFCA employees are immune from any liability.
- Is highly resistant to oversight over the merits of its decision-making. AFCA has kept its internal reviews secret.
- Is not a genuine avenue for a complainant to access true justice. AFCA operates extra-judicially—outside the court system. Complainants do not receive the same legal protections afforded by the courts. AFCA is not bound by the rules of evidence and it cannot compel the provision of testimony or documents. AFCA does not determine the legal rights of the parties to a complaint.
- If a complainant is not satisfied with AFCA's decision, too bad—it is not possible to appeal an AFCA determination, except through the courts. Lack of oversight over AFCA means that its decision-makers are largely unaccountable.

The CSLR is not a genuine solution for Sterling victims. Instead, they must be immediately compensated for ASIC's maladministration through an Act of Grace payment. Every day they are not compensated, elderly Sterling victims are living in poverty, in constant fear of being thrown out into the street, many with serious health issues or terminal illness. Three years of stress and anguish after being scammed out of their life savings has taken a dreadful toll on these elderly pensioners. Sterling victims describe living below the poverty line; panic attacks, major depression and suicidal thoughts;

being unable to afford medical procedures, or to go on outings with their families or to buy birthday presents for their grandchildren. Many are living with serious health issues, aggravated by the “unbearable” anxiety of their “living nightmare”. Some are terminally ill. Twenty Sterling victims have died; some of their families believe that their deaths were hastened due to the trauma they have experienced. After having worked hard all of their lives, Sterling victims are living their last years under enormous strain, facing imminent homelessness and feeling “desperate and completely hopeless”.

In his Budget Reply, Mr Albanese said: “We’ve all been chilled by stories of unforgivable neglect [of elderly people] ... It goes against everything we are as Australians.” He pledged that a Labor Government won’t leave Australians behind. Labor must not abandon Sterling First victims to their suffering. Labor must commit to an election pledge to compensate Sterling First victims for ASIC’s negligence with an immediate Act of Grace payment to restore their stolen life savings. A mere \$18.5 million plus interest and expenses will compensate victims for the losses incurred because of ASIC’s negligence, allowing them to live their remaining years in dignity and peace.

[Click here to learn about the Sterling First victims who are being abandoned by the major parties .](#)

[Click here to sign the Citizens Party’s petition for a post office people’s bank, to break the monopoly of the Big Four banks, which use their power over politics to deliberately keep the regulator ASIC weak and ineffective.](#)