



Australian Government
The Treasury

TSY/AU

Quality of Advice Review

Template for response

August 2022



Consultation process

Request for feedback and comments

Interested parties are invited to provide feedback on the proposals for reform listed in the Quality of Advice Review Proposals Paper using the template in [Appendix 1](#). Consultation will close on Friday 23 September 2022.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses in a Word or RTF format via email. An additional PDF version may also be submitted.

Publication of submissions and confidentiality

All of the information (including the author's name and address) contained in submissions will be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

View our [submission guidelines](#) for further information.

Closing date for submissions: 23 September 2022

Email	AdviceReview@TREASURY.GOV.AU
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Enquiries	Enquiries can be initially directed to AdviceReview@TREASURY.GOV.AU

Appendix 1: Consultation template

Name/Organisation: Angela Aspinall – Spencer Private Wealth

Questions

Intended outcomes

1. Do you agree that advisers and product issuers should be able to provide to personal advice to their customers without having to comply with all of the obligations that currently apply to the provision of personal advice?

Hard yes

Best interest duty and disclosures in my opinion does not equate to quality of advice. “Good advice” is advice that would be reasonably likely to benefit the client

What should be regulated?

2. In your view, are the proposed changes to the definition of ‘personal advice’ likely to:

- a) reduce regulatory uncertainty?
- b) facilitate the provision of more personal advice to consumers?
- c) improve the ability of financial institutions to help their clients?

- A) Yes, there was too much uncertainty, product advice, general advice, limited advice, strategic advice should all be removed
- B) This will make financial advice more affordable and sustainable and hence available to more consumers.

C) Financial institutions/product providers need to be made accountable. For example, anyone can log into Vanguard personal investor and/or their new super platform and/or another super provider and invest. These providers need to provide a service of personal advice to ensure their product is appropriate for the client as well as explain fees and risks.

3. In relation to the proposed de-regulation of 'general advice' - are the general consumer protections (such as the prohibition against engaging in misleading or deceptive conduct) a sufficient safeguard for consumers?

a) If not, what additional safeguards do you think would be required?

I have not seen in the proposal the **"fact find" "risk profile"** nor file notes addressed

The fact find –another document that I think is a redundant admin time waster. File notes and research should have a bigger emphasis I feel – maintaining complete consistent records of advice. There needs to be guidance here, exactly what content is required. If you're intent is to provide good advice – a fact find full of empty n/a fields will not protect adviser or consumer. Detailed file notes and research will.

The 'risk profile' document– I believe this should be standardised across the industry with clear definitions and determinations. For example, 'balanced fund' is not always 70/30. Some product providers classify alternatives and credit as defensive; I believe this is incorrect. Addressing this would protect clients by providing clear definitions of asset classes. Also, if the adviser is not skilled or has not asked deep questions, they may determine an incorrect risk profile due to cognitive bias.

How should personal advice be regulated?

4. In your view, what impact does the replacement of the best interest obligations with the obligation to provide 'good advice' have on:

- a) the quality of financial advice provided to consumers?**
- b) the time and cost required to produce advice?**

a) To replace best interest duty has nil impact – it is purely a checklist and not client centric. The quality of advice to consumers will be enhanced by 'good advice' – however there needs to be a clear outline of what 'good advice' is. The statement below does not mean anything – it should be specific, relevant and measurable.

A person who provides personal advice should be required to provide 'good advice'. 'Good advice' is advice that would be reasonably likely to benefit the client, having regard to the information that is available to the provider at the time the advice is provided.

b) We are having to charge clients high fees to produce the SOA – this is not what they value – 30 pages of annexures. We are finding that we are ruled more by compliance and to be a sustainable business we must charge our time. It saddens me when I sit in front of a potential client who I can really help but they cannot proceed as they do not have enough to invest nor can afford our time.

5. Does the replacement of the best interest obligations with the obligation to provide 'good advice' make it easier for advisers and institutions to:

- a) provide limited advice to consumers?**
- b) provide advice to consumers using technological solutions (e.g. digital advice)?**

- a) I disagree with this question. It is not limited advice it is personal advice that is good advice and aimed at the consumer's needs. Limited advice is ridiculous – also known as scaled advice. Scope in scope out – what nonsense. If the consumer comes to you and they only want advice on their insurance – this should be recorded and personal advice provided, if insurance is affected, we must bring this to their attention.
- b) Digital advice cannot be called personal advice as it uses algorithms and technology. This is not good advice nor personal advice – it is as it states - it is digital advice and consumers should be made aware of it and take responsibility if they choose it.

6. What else (if anything) is required to better facilitate the provision of:

- a) **limited advice?**
- b) **digital advice?**

- a) Limited advice – get rid of it
- b) Digital advice – educate consumers and warn them that it is not personal advice

7. In your view, what impact will the proposed changes to the application of the professional standards (the requirement to be a relevant provider) have on:

- a) **the quality of financial advice?**
- b) **the affordability and accessibility of financial advice?**

- a) No impact – there will always be individuals who will try to cut corners or give bad advice. However, I believe the advice will be quality for the consumer, if it is being addressed from the client's point of view and not on how well we can produce a compliance document.
- b) This will greatly assist the Australian community, consumers who really need financial advice and cannot afford it. Finally, we will not just be working for HNW individuals.

8. In the absence of the professional standards, are the licensing obligations which require licensees to ensure that their representatives are adequately trained and competent to provide financial services sufficient to ensure the quality of advice provided to consumers?

a) If not, what additional requirements should apply to providers of personal advice who are not required to be relevant providers?

A) NSW education has NESAS – an authority outlining the education standards. Licensees need a Financial Advisers Education Standards Authority which outlines an ongoing accreditation guide, this is to be presented at their conferences or webinars. Sometimes licensees make up filler content for their conferences or are aligned to their product provider. Kaplan is very good at the CPD requirements.

Superannuation funds and intra-fund advice

9. Will the proposed changes to superannuation trustee obligations (including the removal of the restriction on collective charging):

a) make it easier for superannuation trustees to provide personal advice to their members?

b) make it easier for members to access the advice they need at the time they need it?

a) Collective charging should be removed as this is not personal advice and it is not transparent. It should be an obligation of superannuation trustees to provide personal advice to members involving their superannuation and insurances held within super.

b) It will definitely assist members; it should be mandatory that they receive personal advice before setting up a superannuation account directly with a superannuation provider. Also reporting to their members should be transparent, they should also be able to see what their accumulated super balance has been since inception or any periods. Many industry funds do not provide this.

Disclosure documents

10. Do the streamlined disclosure requirements for ongoing fee arrangements:

- a) reduce regulatory burden and the cost of providing advice, and if so, to what extent?
- b) negatively impact consumers, and if so, how and to what extent?

- a) Absolutely! It seemed ridiculous to have a fee consent as well as an FDS and what is the nonsense of a 12-month fixed term agreement. A client should be able to choose OFA and sign a fee consent every year (not just if it's coming out their super account). If a client just wants advice for a few hours, we should be able to invoice them for our time. This saves time and money, currently we have to employ someone 12 hours a week to keep track of all of this which we need to then on charge to our clients.
- b) This will not negatively impact consumers. It is currently an absolute nightmare to explain to clients the disclosure requirements for OFA. As well as explaining to a client that their fees were turned off due to an admin error. We forgot to send the FDS 1st July 2022 to a client – then the licensee had to reimburse the super fund the fees plus reimburse interest to the clients bank account; their fees were switched off. The clients were confused wanted to remain client's so they had to sign new documents and they have a new anniversary date. Clients seriously look at us as if we have two heads. How can we provide good advice when half the time we are explaining compliance requirements.

11. Will removing the requirement to give clients a statement of advice:

- a) reduce the cost of providing advice, and if so, to what extent?**
- b) negatively impact consumers, and if so, to what extent?**

- a) Yes – it takes us about 40 hours to produce a SOA (40 x \$195 = \$7,800) we cannot charge this – we are losing money. We can only charge \$6,000 maximum– which is still expensive for the average consumer. We can only be sustainable if they participate in the OFA. If we could halve this, we could service so many more consumers who need good advice – not just HNW individuals.
- b) No – the SOA contains 30 pages of annexures which they do not understand – it would take us weeks to explain to them. It is repetitive and it is there purely as disclaimers to protect the licensee/ AFSL holder. It means nothing to the client, if anything it scares them as it is written in legal terms.

12. In your view, will the proposed change for giving a financial services guide:

- a) reduce regulatory burden for advisers and licensees, and if so, to what extent?**
- b) negatively impact consumers, and if so, to what extent?**

- A) An FSG can now be accessible on the website. Finally. Currently a failure to provide an FSG – (a disclosure doc) within the time provided can now be punished with a five (5) year prison term, pretty harsh when it could be an admin mistake. It is also a time-consuming admin task of emailing and recording different versions.
- B) No – I believe as an adviser we should bring the FSG to consumers attention, they may request it or view it on the website. How normal would that be.

Design and distribution obligations

13. What impact are the proposed amendments to the reporting requirements under the design and distribution obligations likely to have on:

- a) **the design and development of financial products?**
- b) **target market determinations?**

- A) Less useless work for Licensees. Finally, distributors of financial products are being made accountable. Reporting only if a complaint made makes sense. Report all no complaints – unbelievable admin waste of time. If good advice is provided it should be shown in the research and file notes. Product Disclosure Statements should outline DDO and TMD.
- B) Target Market Determination (TMD) means nothing. If you call yourself a financial adviser you should not need to refer to a TMD. TMD should be part of the DDO and not stand alone. TMD is also restrictive – a product may not apply to a client due to their age, however they may still wish to work till age 75.

Transition and enforcement

14. What transitional arrangements are necessary to implement these reforms?

NONE

It should be done in phases

1. Rewrite Chapter 7 and RG175
2. Remove FSG regulation – update RG244
3. Remove FDS

4. Rewrite RG274
5. etc

General

15. Do you have any other comments or feedback?

Yes

I really believe product issuers need to take more responsibility. For example, anyone can log into Vanguard personal investor and/or their new super platform and/or another super provider and invest. These providers need to provide a service of personal advice to ensure their product is appropriate for the client as well as explain fees and risks.

File notes and research will have a bigger emphasis I feel – maintaining complete consistent records of advice. This needs to be standardised across the industry as to what content is required.

I could not see the proposal address the fact find – this is another document that I think is redundant. If good advice is provided and proper record keeping made – this should not be required.

Nor has the proposal addressed the ‘risk profile’ document– I believe this should be standardised across the industry with clear definitions and determinations. For example, ‘balanced fund’ is not always 70/30. Some product providers classify alternatives and credit as defensive. Addressing this would

protect clients by providing clear definitions of asset classes. Also, if the adviser is not skilled or has not asked deep questions, they may determine an incorrect risk profile for the consumer due to cognitive bias.

DDO and TMD should be contained in the PDS. PDS' need to be addressed as they are still not transparent. Fees are still hidden and terminology not client centric – get rid of the pretty pictures and educate consumers.

Insurance has not been addressed.

Digital advice RG 255 needs to be addressed.

Influencers need to be addressed.

Happy to assist in a consultative manner if required. This is my career and I care very deeply about my clients and about financial advocacy, education and security for Australian's.