QUALITY OF ADVICE REVIEW

PROPOSALS PAPER

AIOFP SUBMISSION – September 2022

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ASSOCIATION OF INDEPENDENTLY OWNED FINANCIAL PROFESSIONALS

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Executive Summary - The Association of Independently Owned Financial Professionals (AIOFP) welcomes the opportunity to respond to the 'Proposals for Reform' in the Quality of Advice Review (QAR) consultation paper.

It is significant to the AIOFP that Ms Levy recognizes and affirms positively that changes should be made to the regulatory framework to improve the accessibility and affordability of financial advice, as to the purpose of the Review. Furthermore, the AIOFP supports the clarity of vision of Ms Levy in observing that 'the current regulatory framework is a significant impediment to consumers accessing financial advice'.

The AIOFP represents non-institutionally owned or aligned members with around 6000 financial advisers actively working to provide quality advice to consumers. The QAR has eventuated in response to the failure of policy by a coalition government more concerned about its own electoral prospects and less with the right of all Australians to be able to access high quality, affordable, financial advice. To that extent, AIOFP supports the objectives of the Future of Advice (FOFA) reforms which sought to benefit consumers by policies which aimed to improve the trust and confidence of Australian retail investors in the financial services and ensure the availability, accessibility and affordability of high - quality financial advice.[1]

In submitting this paper, AIOFP will respond to those core matters which it believes affects its members and their ability to provide accessible and affordable advice to consumers. Consumers and their best interests have been at the centre of legislative reforms in a number of respects. The QAR proposals seek to amend those reforms. Some are consistent with the position of the AIOFP, others are not. It is suggested that a symbiotic relationship exists between the professional financial adviser and the consumer. The regulatory environment and compliance burdens, together with inappropriate political intervention by the previous government, have conspired to confuse the ecosystem in which that trusted relationship operates.

[1] *Corporations Amendment (Future of Financial Act)2012 and Corporations Amendment (Future of Financial Advice Measures) Act 2012.*

Proposal 1: Regulation of personal advice.

The position of the Association is that all advice, when formally requested, professionally delivered and upon which a fee paid, is personal advice. It is not advice that arises as a result of a casual conversation or passing an opinion about a financial product or class of financial product. To that extent the AIOFP agrees with Review Proposals at 1.5 (What should personal advice cover?). Personal advice is evident when a recommendation is made to influence a consumer to make a financial decision. This line of reasoning is clearly established in RG 36 where the regulator establishes the elements which constitute personal advice.[2] The consumer can readily and intuitively understand what is deemed to be 'personal advice'. Maintaining the elements that give rise to 'personal advice' as defined under s 766B(3)(b), would also prevent institutions such as banks, insurance companies and superannuation funds from attempting to subvert the legislation in any attempt to mislead the consumer.[3]

AIOFP also notes the proposal of the Australian Law Reform Commission (ALRC), in its attempt to simplify and harmonize the Corporations Act, to remove the definition of 'financial product advice' in s766B. This proposal effectively removes the definition of 'personal advice'. Proposal A 13, suggests the removal of the definition of 'financial product advice' and to substitute this with 'general advice or personal advice, as is applicable'.[4] The ALRC goes further to inform that in redefining the provision of advice, it suggests the renaming of 'personal advice'.[5]

To the extent that consumers could be confused or misled, the AIOFP would not support Proposal A 13 of the ALRC.

[2] Regulatory Guide 36. Licensing: Financial product advice and dealing. June 2016.
[3] *Corporations Act 2001* (Cth), s 766.
[4] Australian Law Reform Commission Interim Report A. Report 137, November 2021. [11.43].
[5] Ibid [11.80].

Proposal 2: General Advice.

The AIOFP position is that the regulatory environment should provide for non - cross subsidized lower cost advice, to the benefit of the consumer actively seeking that advice.

The concept and definition of 'general advice' has been the subject of much legal academic debate. The term 'general advice' is concisely defined as, 'financial product advice that is not personal advice'.[6] Adviser obligations differ as between the provision of personal, compared to general advice, with higher consumer protections being afforded via personal advice. Even the ALRC grapples with the concept of 'financial service advice', preferring in Proposal A 14, to substitute the term 'general advice' and in Proposal A 15 to replace this term with a more intuitive one. [7]

The reason the term 'general advice' exists is to enable institutions such as banks, insurance companies and superannuation funds to facilitate the passage of information to customers. However, this advice is often used to present personal advice in the misleading guise of 'general advice'. The most recent case known as the 'General Advice Case', provides evidence for this assertion. [8] The High Court found that Westpac had provided 'personal advice' to clients.[9] Keifel CJ, Bell, Gaegeler and Keane JJ, unanimously dismissed Westpac's appeal with costs.

Commercial sustainability is lacking with Super funds providing advice to members. This is clearly demonstrated with the Q Super case closing down their advice division and making redundant 79 Advisers in a short space of time.

Research by ASIC found that consumers did not differentiate between the 'labels' of 'personal advice' and 'general advice'. The research published on 4 May 2021, found there was no evidence that a change of 'label' enhanced consumer understanding and that there was an increased risk of consumer

[6] *Corporations Act 2001* (Cth), s 766B(4).
[7] Ibid. [11.51] and [11.60].
[8] Westpac Securities Administration Ltd v Australian Securities and Investments Commission [2021] HCA 3.
[9] Corporations Act 2001 (Cth), s 766B(3).

misunderstanding.[10] Despite these findings, ASIC advised it was not making any recommendations to change the label of 'general advice'.

ASIC RG 244 provides guidance on the provision of advice.[11] The AIOFP draws particular attention to Part B (Giving further information) and Part C (Giving general advice). The Association notes that in RG244.24 that 'factual information' can be provided and is '*objectively ascertainable information, the truth or accuracy of which cannot be reasonably questioned*'. On 1 July 2021, ASIC released the results of Consultation Paper 332 (CP332), whereby accessibility and affordability to advice would be enhanced by the provision of good quality factual information.[12]

The AIOFP position, supported by research, is that the consumer can be confused, deceived and misled by the term 'general advice.' Indeed, it is argued that the large vertically integrated organizations such as banks and superannuation funds, in particular, obfuscate their advice to consumers by disguising their personal advice cloaked as 'general advice'. The detriment to consumers would not occur if such institutions confined their advice to the mere provision of factual information.

It is clear vertically integrated structured advice leads to breaches of the Corps Act [Westpac] and questionable commercial sustainability.

The AIOFP agrees that the term and concept of 'general advice' be removed. Simply put, from the perspective of the consumer, advice is advice and all advice is 'personal advice.'

Proposal 3 – obligation to provide good advice.

There is no contest to the view expressed by the Reviewer that personal advice provided by an individual be a relevant provider. However, the AIOFP disagrees that the best interest obligations in Chapter 7 of the Corporations Act be

[10] ASIC 'Findings from consumer research on 'general advice' label'. 4 May 2021.
[11] ASIC Regulatory Guide 244,'Giving information, general advice and scaled advice'.
[12] ASIC Consultation Paper 332 (CP332), 'Industry response to consultation on providing consumer access to affordable advice'. ASIC commented that the response was 'unprecedented' with 466 submissions received.

repealed.[13] The AIOFP further submits that the statutory replacement of the best interest obligations with 'good advice' is not in the best interests of consumers. The Association is not in agreement with the statement that '*I do not think this relaxation of the existing law … would create a risk of greater consumer harm – anyone who gives personal advice to a retail client would have to give good advice'.*

The AIOFP's view is that by proposing to replace the obligation of 'best interest' with 'good advice', consumer protections would be lowered with potential harmful implications, and guidelines to the professional financial adviser would become increasingly opaque. Furthermore, the Courts would have increased difficulty in providing interpretative clarity. *[14]*

The AIOFP argues that by replacing the best interest obligations, statutory obstacles will be removed to allow banks, insurers and superannuation funds to provide 'good advice' by their standards, which may not necessarily be in the best interests of consumers. The Reviewer informs '*In my view, an obligation to give good advice should make it easier for banks, insurers and superannuation fund trustees to give simple advice to their customers'. [15]* This position ignores the fact that consumers view advice as personal advice and do not distinguish if that advice is simple or not. The Reviewer does not address that simple advice can also be bad advice. The Association believes that 'good advice' is not an obligation to the consumer of a 'best interest'. Best interest is a duty that incorporates good advice, but does not replace it. Good advice, however defined, should be a function of and manifest itself in the higher order duty to the consumer, of an obligation of acting in their best interest.

Similar to the Reviewer, Commissioner Hayne, in the Hayne Royal Commission on banking misconduct, (HRC), proposed that the safe harbour provisions contained in the 'best interest' obligations be repealed by 31 December 2022, unless there was a reason to retain them.[16] These Consultation Proposals agree

[13] Corporations Act 2001 (Cth) 2001, s 961B.
[14] Quality of Advice Review – Proposals for Reform. August 2022. [2.8] 20.
[15] Ibid. [2.9], 21.
[16] Banking Royal Commission Final Report (n1) vol 1, 178.

with the HRC that the safe harbour clauses encouraged a 'tick a box' approach.[17] By repealing the best interest provisions, the safe harbour clauses will consequently be repealed. The AIOFP argues that this action is neither beneficial to consumers nor financial advisers.

The idea of the safe harbour clauses was to provide a statutory yardstick to test if appropriate advice had been given in the client's best interest. Commissioner Hayne was critical of section 961B (2) as being more 'procedural than substantive'. The Association argues here that in the absence of a definition of a best interest duty, this section of the *Corporations Act* offers both guidance and structure.

The above argument extends to judicial considerations. Legislative guidance and structure are important. In *ASIC v NSG*[18] and *ASIC v WRM*[19], Moshinsky J informed that there needs to be some statutory certainty in the absence of a definition of a best interest duty in the *Corporations Act.* Importantly he expressed the view that a defence for advisers can operate if the adviser can prove that if each of the things under section 961B(2) has been done, then the best interest duty can be satisfied.[20] Similarly so in *ASIC v Financial Circle,* where O'Callaghan J, reiterated the defence role of section 961B(2) and that this clause can act as a proxy to assess compliance with section 961B(1), being the best interest duty. These cases reveal how the Federal Court interpreted the safe harbour provisions and provides clarity for financial advisers whilst simultaneously providing protections for consumers from inappropriate and poor quality advice.

The position of the AIOFP is clear in that in the possible abolition of section 961B, there may be implications and unintended adverse consequences for both consumer protection and financial advisers. Whilst another layer of compliance may have been removed, this may cause excessive caution and conservatism by

[17] *Corporations Act 2001* (Cth), s 961B(2).
[18] *Australian Securities and Investment Commission v NSG Services Pty Ltd (2017) 122 ASCR ('ASIC v NSG (No 1)') 48 (1).*
[19] *Australian Securities and Investment Commission v Wealth & Risk Management Pty Ltd (2017) FCA 477,[27] (ASIC v WRM (No1)').*
[20] *ASIC v NSG (No 1)* (n 41) 52 [17].

advisers which may not result in optimum outcomes for consumers. Also, the existence of the best interest duty acts as a guide for financial advisers consistent with the 'fundamental norms of behaviour' intended by the Royal Commission to the benefit of consumers.

The AIOFP also argues that in the absence of legislative clarity, noting that the best interest duty is not defined, should section 961 be removed, then the courts would have to look to other objective matters, based on the facts, to ensure that the consumers' best interest was being served by the advice given and the products selected.[21]

Proposal 4 – requirement to be a relevant provider.

For the protection of the consumer, the AIOFP agrees with the Reviewer at 2.8 of the Consultation Paper, that '*any personal advice provided by an individual be provided by a relevant provider.'*

Section 910A of the *Corporations Act*, clearly defines who is a 'relevant provider'. The Association agrees that a professional financial adviser has a best interest obligation to the consumer. This obligation was framed as part of the FOFA reforms when the 'suitability rule' was replaced by a 'best interest obligation'. However, whilst a fiduciary duty was discussed in the Ripoll Report, this duty was not then, or subsequently, made part of any legislative changes. Nevertheless, it is the 'relevant provider' who has obligations to the consumer.

The AIOFP does not agree with the Reviewer that a best interest duty should not apply or is even desirable, in every instance where personal advice is provided. As submitted in the foregoing sections, the consumer perceives all advice to be 'personal advice' and that formal advice, in the best interests of the consumer, should only be delivered by a 'relevant provider'. Should personal advice not be so provided, the Association submits that consumer protections would be reduced.

[21] *Banking Royal Commission Final Report*, (n1) vol 1, 177 [3.2.4].

A relaxation of the existing provisions of the *Corporations Act*, would, in the opinion of the AIOFP, lead to the confusion by consumers. It has already been established that consumers view all advice as 'personal advice'. Consumers have come to expect that they have protections under the law.

The consumer would not be able to distinguish between an individual who provides advice to them casually, or generally, as opposed to receiving professional personal advice.

The AIOFP is critical of the suggestions of the Reviewer at Consultation Paper 2.9 whereby the role of the 'relevant provider' is usurped. The commentary by the Reviewer … '*should make it easier for banks, insurers and superannuation fund trustees to give simple advice to their customers'* is inconsistent with a duty to the consumer. This line of reasoning by the Reviewer, and its support of vertical integration, was heavily criticized by Commissioner Hayne in the Banking Royal Commission. The AIOFP supports the separation of product from advice. It is not in the best interests of the consumer or professional financial adviser that there be any blurring of the lines of separation between product and advice.

Proposal 5 - personal advice to superannuation fund members.

Proposal 6 – collective charging of advice fees.

Intra fund advice has been a contentious issue for the financial planning industry. In the opinion of the AIOFP, Proposals 5 and 6 seeks to change the *SIS Act*,[22] to allow certain superannuation funds, being single product providers of superannuation to members, to charge all members for the provision of personal advice to a certain class of member. Given this, the AIOFP does not support intra fund advice.

The process of intra fund advice fails section 99F of the *SIS Act* insofar as this section prohibits that the cost of providing personal advice to superannuation members be paid from the assets of the fund. The Review does note however, that this payment is standard practice for superannuation fund trustees.

[22] *Superannuation Industry (Supervision) Act 1993.*

Section 62 of the *SIS Act* is specific in establishing a 'sole purpose test' that a superannuation fund is designed to provide for the retirement and other associated benefits to members. In the previous section of this Review, AIOFP discussed the provision of personal advice. This implies that the advice is specific to a member.

If the advice is personal advice, then the cost of that advice should be attributed to the member benefiting from that personal advice. The cost of this advice should not be levied against other members of the fund who do not receive that specific benefit. This process is tantamount to the 'fee for no service' so heavily criticized in the Hayne Royal Commission.

The Review makes two specific recommendations, both of which are not supported by the AIOFP. Firstly, the Review calls for the repeal of section 99F of the *SIS Act.* The rationale advanced for this repeal is, to avoid confusion and to provide trustees with powers to allow for the collective payment for personal advice benefitting only specific members. As stated previously, members are therefore paying for personal advice they neither requested nor received. Secondly, is the call to amend section 62 of the *SIS Act*. For the same reasons as formerly discussed, AIOFP does not support this amendment to allow trustees to provide personal advice, the cost of such to be paid by all members of the fund. This is wholly inconsistent with the 'sole purpose test'.

Trustees of superannuation funds have similar responsibilities to financial advisers, notably a best interest obligation. Section 52(2) c, provides that trustees must '*exercise powers in the best interests of beneficiaries'.* These interests are usually financial interests. There is a duty for the trustees to consider the best interests of *all members.*[23]

AIOFP raises its concerns that the outcomes desired in Proposals 5 and 6, are unfair to consumers and allows for the avoidance of the best interest duty of trustees towards the consumer beneficiaries as members of a superannuation fund.

[23] Manglicmot v Commonwealth Bank Officers Superannuation Corporation (2010) 239 FLR 159.

Proposal 7 – Fees for advice provided to members about their superannuation.

There is agreement that ongoing adviser fees not be charged for MySuper accounts. AIOFP concurs that this is a default position, so no advice is given.

AIOFP also agrees to the extent that there is ambiguity in the payment of adviser fees from superannuation accounts for choice products, section 99F of the *SIS Act* be amended.

The Review ponders the question as to how much and how frequent should advice fees be paid. The AIOFP position is that the payment is a commercial arrangement with the consumer, and the trustee has no role in determining the amount and frequency of payment. The requirement of each member consumer to personal advice is different as is their individual risk tolerances, asset allocation, and estate planning requirements. Trustees are not qualified to give personal advice nor to determine the needs of each consumer. Each member will have different requirements to some extent depending on their account balances. The *SIS Act* makes no provision for trustees of superannuation funds to give personal advice or make tax or estate decisions for members. Furthermore, the *Code of Ethics* and the relevant provisions of the *Corporation Act* provide safeguards for consumers specific to charging fees and obtaining value for money. [24]

To the extent that the outcome in Proposal 7 is aimed solely at improving regulatory certainty for trustees, but not to the extent of allowing trustees to determine how much or the frequency of payment of fees for personal advice, the AIOFP would be in favour of this proposal.

Proposal 8 – Ongoing fee arrangements and consent requirements.

On behalf of the professional financial planner who actually 'lives and breathes' the actual provision of advice, the AIOFP cannot agree and voices its strong objection to the continued imposition of unnecessary ongoing fee arrangements and consent obligations.

[24] *Corporation Act 2001* (Cth) s 921E.

The AIOFP's position is that these regulatory and compliance burdens have, of themselves alone, driven up costs to make advice now inaccessible and unaffordable.

The Association is disappointed that the Review, whose central terms of reference to question the accessibility and affordability to high quality advice, can adopt a position that largely supports a continuation of the current regime.

Furthermore, the AIOFP is disappointed by the apparent lack of understanding by the Reviewer as evidenced in the comment; '*I also do not think they are unduly onerous'*, referring to the ongoing, annual, requirements. The Reviewer does not seem to appreciate the cost pressures placed on financial planning businesses. Such onerous obligations have resulted in many practices exiting the provision of financial advice, on the basis that profitability has suffered and remaining in business is no longer viable.[25] This is not beneficial to the consumer.

The Reviewer needs to understand that for the professional financial adviser, these obligations are entirely onerous. AIOFP members point to the fact that in no other common law country does this annual re-endorsement of a professional relationship exist.[26]

The AIOFP argues forcefully that there is no consumer benefit provided by these ongoing consent requirements. These obligations are not consumer protection tools as suggested by the Reviewer but rather gross arbitrary impositions escalating the cost and accessibility to advice. The Reviewer is also silent on the matter of the now annual Opt-In requirements. Taken together, a consumer will now receive, an annual Fee Consent Form, an annual Opt-In Form and an annual Fee Disclosure Statement. This is confusing to the consumer and drives up costs for financial advisers with no evidence of any consumer gain. AIOFP supports the removal of, fee consent forms, opt-in forms and annual fee disclosure. This is expensive for advisers to administer and confusing for the consumer.

[25] Chris Dastoor, 'Professional Planner', 'Fee consent forms leave advisers in tears': FPA chief'. 20 June 2022. https://www.professionalplanner.com.au/2022/06/fee-consent-forms-leave-advisers-in-tears-fpa-chief/.

[26] Such a compliance requirement is absent from the obligations on financial advisers via the Financial Conduct Authority of the UK, similarly so for broker dealers and investment advisers regulated by the Securities and Exchange Commission in the USA. This is also the case with the European Securities and Market Authority.

AIOFP reinforces the lack of consumer protection and points out that a consumer in a superannuation fund already receives a biannual statement.

Consumers in an investment platform currently receive four statements and an annual statement detailing all fees, charges, income and tax position. In addition to this formal provision of information, all consumers have online access to all this information 365 days of the year.

AIOFP reiterates there is no consumer benefit or protection in this multiplicity of information and to the contrary, these oppressive compliance requirements act to the detriment of the consumer.

Proposal 9: Statement of advice.

A Statement of Advice (SOA) is prescribed in the *Corporations Act*.[27] The intention of the legislation was to arm consumers with information to make an informed decision. To assist with and to ensure compliance, ASIC issued a sample SOA in RG 90 [28] and guidance in RG 175.[29] In November 2009, the Ripoll Inquiry found that the SOA, along with a Record of Advice (ROA) and Financial Services Guide (FSG) were ineffective, however decided to retain them.

It is against this legislative and regulatory background that the AIOFP supports the removal of the SOA in its current form. The Association concurs with the observation of the Reviewer that the SOA is not consumer friendly. However, despite representations made by ASIC and AFCA, when assessing complaints, experience has shown there is an immediate demand made for the SOA. File notes are secondary. In response to this behaviour and the often, inconsistent treatment of advisers by ASIC and AFCA, lawyers have advised many Licensees to develop the SOA to become as much a defence document as well as attempting to give the consumer high quality advice. This conflict of objectives in preparing a SOA has added to its complexity and cost, none of which is of

[27] Corporations Act 2001 (Cth) s 947B - Statement of Advice given by financial service licensee - main requirements.
[28] ASIC Regulatory Guide 90, 'Example Statement of Advice: Scaled advice for a new client'. December 2017.
[29] ASIC Regulatory Guide 175, 'Licensing: Financial product advisers- Conduct and disclosure'. June 2021.

benefit to the consumer. The current SOA mindset does not meet the objectives in the *Corporations Act* of being, 'clear, concise and effective'.[30]

The AIOFP recommends to the Review that consideration be given to a return to the concept of a Customer Advice Record (CAR). This was used previously in financial services and predates the SOA. The CAR was by definition a document that sets out advice given to a consumer that includes the basis upon which the advice is given, the details of the providing entity and information on all fees, costs or any payment or benefit to the adviser or licensee will receive. The Association argues this will reduce cost and complexity and will not cause harm to the consumer.

Proposal 10: Financial services guide.

The AIOFP supports greater flexibility in providing a Financial Services Guide (FSG) to clients. The statutory authority to provide the FSG is contained in the *Corporations Act* and has strict criteria and obligations.[31] The Association welcomes the proposal to provide the FSG via a website and presumably by any other electronic means.

This proposal addresses the delivery of the FSG but not its content. AIOFP notes the comment by the Reviewer that the FSG is less difficult to provide than a SOA and the contents of the SOA is not subject to regular change. The AIOFP would tentatively support the proposition by the Reviewer that an adviser may choose not to provide an FSG to a client. However, this support would depend on the assessment of any consumer detriment.

Proposal 11: Design and distribution obligations reporting requirements.

Simplification of the Design and Distribution Obligations (DDO) is supported by the AIOFP. These obligations were created by the coalition government. Despite representations for simplification and flexibility, consistent with the behaviour of that government, these representations went unheeded.

[30] *Corporations Act 2001* (Cth), ss 947B(6), 947C(6). See also RG 175.
[31] *Corporations Act 2001* (Cth), s 942B – Financial Services Guide given by licensees- main requirements.

The Reviewer is correct in forming the view that this obligation places an additional burden on financial advisers. The AIOFP welcomes ASIC's relief from these obligations in its latest legislative instrument.[32]

The AIOFP fully supports the Review in its proposition; '*to only report to the product issuer where they have received a complaint in relation to a product*.'

Proposal 12: Transition arrangements.

Many of the observations made by the Reviewer are supported by the AIOFP, particularly that ASIC's guidelines are not the law. However, the pragmatic adviser and licensee operate under a regime where ASIC's pronouncements become the legal framework under which they operate. This has as much to do with fear of retribution from the regulator as much as obeying what is actually the law. These fears are real. Under these conditions, the AIOFP questions how the intimidation felt by the professional financial adviser can be overcome, such that high quality, accessible and affordable advice can be delivered to the consumer.

The AIOFP fully supports the position of the Reviewer that ASIC should adopt a more facilitative approach, however notes that such an approach was criticized by Commissioner Hayne. The result was an approach by the regulator with the attitude of 'why not litigate'. It is noted however that the ASIC Corporate Plan for 2021-2025 saw a shift from that policy to one of supporting economic recovery. Nevertheless, ASIC will still use its wide powers of enforcement as required. AIOFP then also supports the thinking of the Reviewer that ASIC should meet with industry for a free exchange of ideas.

Conclusion.

Whilst the AIOFP appreciates the opportunity to provide its position on the proposals in this Review, it is acutely aware that almost all of the matters canvassed by the Reviewer were presented to the former coalition government. These submissions were all ignored.

[32] *ASIC Corporations (Design and Distribution Obligations Interim Measures) Instrument 2021/784.*

The AIOFP is of the opinion that the establishment of the QAR was politically inspired as a failed attempt to gain political mileage and to deflect attention from a serious failure of policy.

It was well known to the then Treasurer and subordinate Financial Services Minister, that complex duplications, coupled with onerous and oppressive compliance obligations would not be beneficial to the interests of the consumer. The various proposals in the QAR attest to this failed policy, a policy that has failed the consumer. This is evidenced by the mass exodus of financial planners with a resultant increase in the cost of advice and a decrease in accessibility to quality advice.

Currently, financial planning businesses are struggling with the ability to retain and service those consumers who are most in need of quality financial advice. The legislative environment has forced many financial planners to abandon smaller clients due to costs of merely retaining that client. The AIOFP believes there is a gap in the work of the QAR. The Association submits that the QAR has not sufficiently considered the significant increase in administrative costs imposed on financial planning businesses in meeting the compliance obligations imposed by the former government. The proposals of the QAR go only part of the way to addressing this serious failure of policy. Whilst outside of the terms of reference of the QAR, the AIOFP draws attention to the costs of adviser education and the FASEA exam. Whilst AIOFP supports adviser education to the benefit of the consumer, it does not support the manner in which experienced advisers were insulted and disrespected by the former government.

The AIOFP position is that all Australians have a right of access to high quality and affordable financial advice. Whilst the Association is not supportive of a number of proposals in the QAR, especially the abandonment of a best interest duty, to the detriment of the consumer, it is grateful that the existence of the QAR highlights the deficiencies in a broken system that has made advice inaccessible and unaffordable for many Australians.