



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
Mail	Secretariat, Quality of Advice Review Financial System Division The Treasury Langton Crescent PARKES ACT 2600
Enquiries	Enquiries can be initially directed to AdviceReview@TREASURY.GOV.AU

Appendix 1: Consultation template

Name/Organisation: From Dr Paul Moran & Virginia Dowd + adviser group feedback

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?

No

Note: To enable consumers to better understand advice services they are receiving, consumers need simple and consistent language which defines the outcome of the advice they are receiving eg. super advice, retirement advice, insurance advice, comprehensive advice, financial guidance, wealth management advice...

A coherent and progressive career path for financial advisors needs to be developed, enabling customers with lower complexity needs, to be serviced by the relevant level of qualifications i.e., one does not need a CFP to deliver advice of a simpler nature.

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) Probably yes as it will reduce the legal paperwork & terminology and focus on the customer needs
- b) Yes - but should be tested to check that it is Good Advice & a good customer experience.
- c) Yes, as they will be freer to advise as they wish. However, it will be dependent on evidence-based testing to measure whether it provides 'Good advice'.

Note: Evidence based Testing and developing good advice outcome measures will be needed to deliver confidence to consumers, advise firms and their governance structures. Investment into the industry will be required to drive innovation to make advice delivery easy to access, understand and meet the different life stage needs of consumers.

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?**

Sufficient safeguards: Yes, however these needs to be tested that building confidence across customer & adviser groups

Additional safeguards: Will depend on customer experiences and advised outcome results. We need more learnings before engaging down this path.

[Note: We fail to see why an advice provider who holds information about a client would not consider that information to assist in determining the suitability of a strategy or financial product.

The proposed realignment of 'general advice' might be better termed product advertising given the emphasis on consumer protections aligned with the ACCC regulator.

Good advice in the context of the proposals would be 'reasonably likely to benefit the client', which is a fine definition, however, the suggestion is that this should take account of available information at the time even if this is incomplete or inaccurate. There seems to be no requirement to actively identify information that might be relevant – the opposite of holistically considered advice.

The uncertainty surrounding the difference between personal and general advice, discussed in the proposal body, seems to relate to financial product issuers having difficulty meeting their client's needs for personal advice. It appears that they are unwilling to provide personal advice and therefore confuse it (deliberately?) with general advice as a risk mitigation approach. The confusion does not exist amongst current financial advisers and planners, but exclusively with those product issuers who promote 'free advice'. It is clear, that the demand for personal advice within these institutions has been compromised by their inability, or unwillingness, to charge a reasonable fee for personal advice.

We have no issue whatsoever with financial product issuers and digital advice platforms offering personal advice provided that the delivery of that advice is by a 'relevant provider'. On the contrary, we most strongly disagree with any proposal to allow individuals and bodies corporate to offer personal advice that exists outside the same codes and regulation for 'relevant providers' as this would be clearly discriminatory.]

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) It should be a positive impact, but 'Good advice' needs standards and measures to be set such that it builds confidence for customers and provides goods governance structures for the industry.
- b) It should reduce time & cost due to the reduction in the required compliance procedures/processes (ie all the duties/ safe Harbour, etc).

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) Yes
- b) Yes

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

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

- a) Better training on customer experiences & outcomes. Also as mentioned before, how does the customer, the adviser and the institutions measure the quality of 'Good advice'.
- b) Access to funding & testing so as to give the confidence & motivation to innovate.

- 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) It is likely to have a poor impact on the quality of financial advice. Instead, what is needed is to define & invest in a clear stepped career path in financial advice, to have the right level of qualifications to handle from simple advice to the more complex advice.
- b) Yes, it will make it more affordable (and hence more accessible) as it will be less onerous / time consuming in terms of the compliance hurdles.

- 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?**

Licensing obligations enough?: Each licensee will need to set their own professional standards to meet best practice advice and to grow their advice businesses.

- a) To ensure the industry meets high expectations & trust of the community, a financial Standards Board should be created (independent of product providers/institutions) to provide standards of financial Advice and to measure & monitor their proper application when dealing with consumers, such that standards are maintained.

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) Yes, but not necessarily best for the consumer as they may get charged a lot for the service and they may not meet their real & holistic needs.
- b) No, because difficult to access a human to talk to about 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 single, adviser generated annual fee consent form is, of course, an obvious solution to the current inefficient and muddled situation. It offers a sensible solution.

We are concerned about the requirement to provide clients with a written record of advice provided on request. Surely this means that a record of all advice still needs to be generated and recorded in case the client requested the record after the event. Specifically, providing a written record seems at odds with the suggested flexibility in the provider determining 'what form of advice best suits the client'. Perhaps a voice recording, or video recording might be able to be used instead or otherwise, we will still need to prepare documents in every case – just in case.

The delivery of the Financial Services guide is hardly a problem and, while having it simply available on the website might be easier, it would provide only a very minor benefit.

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?**

The current Statement of Advice – or Financial Plan as it used to be more appropriately called – offers no real benefits to consumers. This is primarily because we have progressively moved towards lawyer drafted documents full of disclaimers and disclosures and meaningless information. Clients need to know that their

adviser knows enough about them to make recommendations, what the recommendations are and how the recommendations will help them, along with the fees applicable and anything else important to the client. A well-written easy to understand financial plan is gold to clients who can refer to it from time to time.

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) Not really / only a minor impact
- b) Should be consumer friendly, which it is not as yet

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?

We see no issue with this as it has already been functionally implemented by ASIC.

Transition and enforcement**14. What transitional arrangements are necessary to implement these reforms?**

- Undertake consumer & adviser research and testing of these reforms to identify the benefits to consumers and the impact on costs to deliver advice.
- Communications and information to consumers at the centre of the change management.
- To rebuild confidence and trust, consumers need to understand the changes, the benefits, and outcomes to them.
- Considerable investment will be required to deliver the technology and training required to implement any reforms

General

15. Do you have any other comments or feedback?