



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

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Appendix 1: Consultation template

Name/Organisation: **David Smith. Financial Planner. Frost Financial Planning.**

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?

Yes. I strongly agree.

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

B Yes

C Yes

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?

The current general protections are sufficient.

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 Quality should be improved because advice can be provided more succinctly

B The time and cost should be reduced, but licensees will need assurances from the regulator to maximise the opportunities to do so. Whether ASIC is the most appropriate regulator is an open question. See notes later.

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 I have no informed opinion on this.

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

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

- A Limited advice will be far more prevalent if there is an element of self-regulation. Licensees' fears of ASIC would be at least partially removed.
- B I have no informed opinion on this.

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 I am not sure
- B It should make financial advice more affordable and accessible by enabling more providers to provide advice.

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 They should be.

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

B Maybe. The advice has to be limited to their “interests in the fund.” Their interests in a fund are only one component of any holistic advice. If they need holistic advice, which is what retirement advice is, I don’t think it will make things easier for many fund members.

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 For advisers still using Fee Disclosure Statements – yes. Preparing FDSs is a significant burden. Our office uses Fixed Term Agreements, so there will be no reduction in regulatory burden for us.

B No.

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 This should lead to a significant reduction in costs – provided AFSLs feel confident that they are not at risk. This is probably the measure in the Consultation Paper that will have the biggest impact on the cost of advice.

B No. The impact on consumers will be positive.

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 Yes. Not hugely significant, but welcome. Issuing FSGs is a cost – without a benefit.

B No.

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 None

B None

Transition and enforcement

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

Licensees are going to need very robust assurances that they can embrace the changes without jeopardising their licenses. This is a vital component of the reform process. Surely, now is the time to be contemplating how self-regulation can play a role.

General

15. Do you have any other comments or feedback?

The proposals are incisive, bold, and very welcome.

But the absence of contemplation of self-regulation of financial planning as part of this review is of enormous concern to me. My views on this topic are:

The industry has embraced the responsibilities of a profession, but has not been granted the liberties that make professions function:

- 1 Self-regulation and by extension,
- 2 Being accountable to our peers

We can never be a profession until we are afforded those liberties, and the interests of the public are best served by us becoming a profession sooner rather than later.

If licensees cannot be convinced to opt-in to the proposed regime, benefits to consumers will be limited. Nothing in this Consultation Paper is going to put the licensees at ease in their dealings with ASIC. In fact, it will probably heighten their concerns.

The proposed new obligation to give “good advice” is bold, and welcome. Judging whether advice is good or otherwise is a subjective matter. It can’t be measured by a checklist – which is the approach that ASIC has adopted in the past to regulate the industry to the point of insanity. ASIC resorted to those measures because it does not possess the professional expertise to be able to subjectively assess whether advice is good or otherwise. I can, as can many of my peers.

In my view, ASIC is not the best entity to be regulating the provision of financial services. That role can most effectively be performed by a professional body.

I would urge Treasury to contemplate whether self-regulation of financial planning should be a part of the reform process. And further, actively ask licensees whether they would be more inclined to opt-in to the proposed regime if they were accountable, at least to some extent, to a professional body rather than ASIC in the first instance. I think their feed-back would be instructive.

Putting self-regulation on the agenda has merit in itself. Given the content of the discussion paper, I think it is imperative to be considered to maximise the benefits of the proposed reforms.

Digital Advice

Be really, really careful with this. The banks (and others) are salivating at the prospect of being able to use unbridled digital “advice” as a distribution channel for their products on an industrial scale. We’ve been there before. Selling products and customer entanglement will be the goals. Not sure how that will be good for consumers - even if it is affordable.