

Secretariat, Quality of Advice Review
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600
Via email: AdviceReview@TREASURY.GOV.AU

Introduction

We welcome the opportunity to provide feedback on the Quality of Advice Proposals Paper published on the Treasury website 29 August 2022.

The advice industry needs reform, advice costs are too high, and the compliance burden – totally impractical. We are encouraged by the proposal thus far, however we do see some consequences from the recommendations that perhaps need to be considered, as we believe it could lead to unintended consequences that could end up being detrimental to consumers and the industry. Our feedback centres on these areas.

Who we are

Paraplanners are the people in the industry who assist advisers to research products, develop strategy, understand deep technical and legislative requirements, conduct software modelling, and write SoAs and RoAs. They are the technical and compliance specialists. Paraplanners are generally forgotten in the industry in terms of professional recognition (to my utter frustration), however undoubtedly, they are critical to the advice development process.

Tanngo is a platform that connects advisers and contract paraplanners and admin staff to help smaller advice business resource their operations in a cost-effective way.

The Paraplanner Hub is a community of 1600+ paraplanners and other support staff on Facebook. It is a place where they network, seek assistance, help others, attend training and chat about industry issues. Some of the feedback included in this submission are the voices of this cohort.

My name is **Melanie Drago** and I have been working in the industry since 1997. I founded Tanngo and The Paraplanner Hub and am passionate about ensuring the industry can provide quality, cost-effective advice to consumers in an innovative way. I would be happy to discuss the perspectives of paraplanners in person, if required.

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OUR RESPONSES TO THE QUESTIONS

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?

We agree that advisers and product issuers should be able to provide advice without having to comply with all the current obligations.

The current framework is far too complicated, confusing, and detailed. This creates poor outcomes for advice businesses where the Licensee rules are too complicated, not detailed enough, or confused. We find that there is also considerable disparity in the way some obligations are interpreted, in most cases, a Licensee will take on a more conservative approach to the law to avoid costly repercussions of regulation breaches, adding a greater compliance burden than what the law otherwise intended.

We believe simplifying the rules, but not removing them completely, will be the balance that is required to improve the way advice is delivered to consumers.

The complexity of compliance rules is a burden for paraplanners

For paraplanners, a large part of their job is to create a Statement of Advice which involves several checks and balances to include all the relevant disclosures, warnings, best interest comments, replacement of product information and other information. Paraplanners would concentrate on the disclosures and text to demonstrate best interest, spending less time on making sure the advice is engaging and consumer friendly, to keep the production costs down. Many advisers rely on paraplanners to make sure their SOA complies with Licensee rules which places an unnecessary stress on paraplanners, who are often reprimanded by the adviser or the compliance/vetting team for 'mistakes' which do not impact the quality of advice and in most cases, are not in breach of the law, only the rules of the Licensee. This is a costly and painful exercise for little benefit to the client and paraplanners therefore agree to the reduction of the compliance burden, so SoAs can be written in a more engaging way, more efficiently.

We believe that consumers still need to have enough information to make a decision about their finances and retirement savings.

Consumers still need a certain amount of information to decide what action to take which would be in their best interests. Everyday consumers who have no financial knowledge do not know what 'good advice' is. They don't understand the costs involved; some hardly understand basic financial concepts. There needs to be a statement of information (for want of a better word) provided to consumers, in a way that can be easily compared with other advice received. Without this, consumers will be relying (trusting?) that the person they are talking to have provided everything they need to know. And we can't be sure that there won't be advisers or product providers that will skim over important detail to ensure they 'get the sale'.

As paraplanners, we see advisers with their own product preferences, some recommended very expensive products with the claim that the client has requested a need for 'ongoing management of their finances', with the preferred product the only option. The changes to the law will not change this, in fact it will make it easier for advisers to do this. The law needs to ensure that clients know and understand the costs and risks involved – without a statement of information, the industry could be thrown back into the spotlight where advisers are charging inappropriately or recommending expensive products claiming it is 'good advice'.

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

(a) Reduce Regulatory Uncertainty

Yes. There is a lot of confusion about what is regarded 'personal' or 'general' advice is currently. This simplified definition will make it clear that where you have personal details on a client, the advice will be classified as personal.

We are concerned about the definition that personal advice is when a provider 'has or holds information about the client's objectives, needs or any aspect of the client's financial situation'. We believe that this will result in some product manufacturers holding scarce information about the client, not finding out enough information about the client, and therefore providing advice which may be classified as 'good advice' based on the information at hand, but ultimately 'bad advice' when the client's whole picture is considered. There needs to be clarity on whether this would still be classified as good advice or not, from a regulatory perspective.

There needs to be clearer definition on what good advice is, what 'quality' advice is, and what personal information is enough to collect to justify good quality advice. A clear measurement of good advice is to ensure that when personal advice IS provided, with limited information on the client, it can still be classified as 'good' advice. For example, if the advice strategy is good advice (contribute to super) but the product is very expensive when compared to other products, is this still good advice? This grey area will cause many headaches for licensee compliance teams who will undoubtedly form varying views about what 'good' advice is and put in place lots of unnecessary rules for advisers to demonstrate their 'good advice', which will ultimately result in similar poor outcomes for advisers and consumers.

(b) Facilitate the provision of more personal advice to consumers

Yes, we believe that this change will allow more personal advice to be provided, as the term is much broader.

(c) improve the ability of financial institutions to help their clients?

The improved definition will allow financial institutions to assist their clients, provided there was clear guidance on what 'good' advice is, when providing personal advice so the ability to provide advice doesn't impact the consumer.

An advice provider who sells a product may have more relaxed rules on what is classified as 'good advice', this coupled with the removal of professional standards for non-relevant providers means that consumers may be getting advice that is not in their best interests, as it serves mostly the product providers who want more funds in their product.

The only way this would be tested is if a client complains to an independent body or there was an independent audit of what advice was provided to determine if the advice was 'good'.

We acknowledge that the proposal suggests the advice provider should make sure the advice is 'good' and ensure guidelines and rules are in place, however, as we have seen in the past, commercial priorities sometimes take precedence whether we like it or not, and certain boundaries should be put in place by the regulators, not the ones providing advice. We believe this approach only benefits the product and advice providers, who have the position of power in the relationship – they know more than the client, and the client must trust the entity providing advice.

We suggest there were some rules where vertically integrated advice providers require external audits on their advice delivery to ensure product sales do not take priority over client's interests.

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?

We think the dawn of social media has been completely ignored when considering the general advice review.

There is a slew of 'Finfluencers' on social media – people who provide 'general' advice to people on financial matters. Some of these people make interesting and valuable commentary – some advice is very damaging and can be interpreted incorrectly by the consumer leading to detrimental outcomes.

We have concerns that ASIC or the ACCC have enough resources to monitor the number of social media influencers to ensure what they are delivering is not misleading or deceptive.

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?

We believe quality advice can be delivered to clients without conducting the Best Interest process. For example we find advisers will often select alternative products that they know are of 'lesser quality or more expensive' to compare against to demonstrate 'best interests' – which is not what the law intended, but a process advisers undergo to provide their advice. We do not believe that the quality of advice will reduce for advisers currently providing personal advice, as they will continue to provide advice in the client's best interest without having to record unnecessary process tasks, as per their ethical obligations.

However, we have concerns about the quality of personal advice provided by non-relevant advice providers. We agree that the advice should be good, and not necessarily 'best', however as stated above, there needs to be a clearer definition of good to ensure the consumers will receive quality advice. There will be varying definitions of this, and we are concerned that the quality of advice will reduce with poorer or confused definitions of 'good' advice, especially by those who are not familiar with advice and the advice process and are not subject to the same rigorous professional standards.

b. the time and cost required to produce advice?

We agree with the position that the advice should be principles based, and not dependent on a process. This will help advisers spend more time on delivering good quality advice rather than meeting compliance obligations.

From a paraplanner's perspective, including the copious amount of text into an SOA to demonstrate best interest is time consuming and is the primary reason why the SOAs take 4-6 hours to complete. This text is not usually templated, and in a lot of cases, the adviser has not collected or provided the paraplanner with enough information to justify best interest (e.g. features that the client requires to justify a more expensive product), resulting in a back-and-forth that causes delays and additional costs.

Although there are claims that the SOA is one of the biggest costs of advice, SOAs generally cost between \$400 - \$600 on average, around 10% of the total advice production costs. We believe the costs are mainly due to the research, file noting, poor technology, and cumbersome licensee rules to create the SOA that cause these issues. The proposed changes to best interest will go a long way to reduce the time and costs in all aspects of advice production.

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?

We believe that there needs to be guidance in place to limit the types of advice that can be delivered in a limited capacity. Without knowing a client and collecting enough information we believe it will be difficult to provide good advice; leaving this decision to a vertically integrated advice provider will likely mean that it will be easier to provide advice, but the quality could be impacted as product sales may take priority and the licensee rules won't be robust enough to ensure good advice is being delivered.

b. provide advice to consumers using technological solutions (e.g. digital advice)?

Digital advice with best interest obligations is too difficult to provide, as too much information is required to be collected to follow the best interest obligations. This makes for a confusing advice journey with few clients following the process from start to finish or implementing the recommendations.

We agree that removing this obligation will make it easier for clients to receive advice in a limited capacity regarding their superannuation or retirement or investments without having to pay thousands for personal advice.

6. What else (if anything) is required to better facilitate the provision of:
a. limited advice?
b. digital advice?

None.

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?

The consumer needs to be clear on who is providing advice, and whether the advice provider is a relevant provider. There should be a requirement either in the FSG or similar which states whether the client is dealing with a relevant advice provider or not.

Without this, the quality of financial advice from non-relevant providers to consumers may be of lesser quality or subject to remediation in the future which will tarnish the industry (again).

Non-relevant providers who are providing advice without any professional standards, should be limited to the type or scope of advice they can provide without professional standards, to ensure that comprehensive financial advice is provided by professionally trained individuals.

b. the affordability and accessibility of financial advice?

These new rules will allow product providers to provide financial advice to their clients in a cost effective, scalable way (i.e. through call centres and digital solution) which will improve the affordability and accessibility of limited advice.

We do not think the changes will improve the affordability and accessibility of advice provided by relevant providers. In fact, it may mean that advisers might choose to be a non-relevant advice provider, instead of going through the education requirements, for similar personal outcomes. This may result in the continuing trend of reduced numbers of advisers that are qualified to give advice, making advice from relevant advice providers less accessible and possibly less affordable as demand increases and supply reduces.

We also think that with the marketing spend that the larger institutions have, they will be able to saturate the market with personal advice options, making it hard for consumers to find the right advice and/or discern who is a relevant provider or not. Ensuring the consumer is clear on when they should be seeking advice from a relevant provider or not, is critical to ensuring accessibility to advice for every client's needs.

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?

We feel the proposal places a lot of trust and weight on the licensees to ensure that the advice provided by the representatives are of quality, and in the past, we know that this does not always work, and licensee rules and operations can put the provider's interests before the client's (e.g. AMP and other banks in the Royal Commission).

There should be a minimum standard of professional education that representatives need to have to advise consumers about products their personal financial strategic options. Otherwise we feel we will see call centre people with little training other than one-hour in-house video and a basic script attempt to coach a client on important financial issues. With little knowledge, any questions that go off script could be met with the wrong type of advice, and ultimately lead to poor outcomes for consumers who may not be able to recover in their retirement years. These clients may not even lodge a complaint as they are unaware of the bad advice – so the advice continues to be provided, poorly until found years later.

By having a minimum qualification (e.g. similar to RG146) it may also help build a career pathway for other industry participants like administration persons and paraplanners who will count this qualification as part of their professional standard pathway to be an adviser.

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?**

Yes, we believe it will make it easier for super trustees to provide personal advice, and access advice when they need it.

There is a need to support the mass market for cheap or free financial advice, and the super funds are best placed to do this.

We do think that there needs to be a clear demarcation between personal advice provided by a relevant provider and a trustee that the consumer understands.

Some advice that superannuation trustees can provide can be critical to a client's situation – e.g. moving to retirement, therefore we believe that there needs to be clear boundaries from the regulator as to who can provide complex advice such as this (e.g. relevant providers only), so to not impact retirement outcomes where a professional may consider the client's entire situation and risks/benefits of their options more thoroughly.

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?

We agree with this proposal – the current law is too time consuming, cost heavy, and adds little value to the customer.

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 cost of providing financial advice is more than just the SOA. It's easy to blame the SOA as the main offender as it's probably the only component of the advice process that is easily measured in terms of time and cost.

We do not agree with the proposal that only a "record" of the advice should be maintained and supplied to the customer on request when trying to solve the affordability and accessibility problems. We think that this will reduce the cost marginally, because an advice document may not be required in some cases, we think that advisers will continue to provide a document to most clients anyway, not really achieving the 'cost efficiency' outcome desired, and instead making it worse for the consumer by not having minimum requirements for the content of disclosure.

The research on products and strategy will still need to be conducted and recorded, and this takes time. By removing best interest duty process, it may reduce the time taken to generate an SOA as this is mostly text that needs to be manually typed and referenced from client fact finds and file notes – however this time saving may be replaced with other document sections to add client engagement and interest. We do not think there should be a complete removal of a document provided to the client which outlines the advice, basis, risks, and the fees being charged.

We think this proposal will negatively impact consumers as they will no longer be receiving a somewhat standardised document that they compare between providers of advice. While most of the proposals go a long way to improve the accessibility and cost of advice, the proposals have forgotten about disclosure of fees, costs and risks that clients need to make an informed decision. The suggestion that we should stop mandating a statement of advice document to 'reduce costs' is not going to be the panacea that most advisers believe it will be.

Is the client expected to find the relevant information themselves in PDSs? Or remember them from a discussion with an adviser? If they request the record from the adviser, how can we be sure that the fees are disclosed correctly without some basic disclosure requirements?

Furthermore, from experience, adviser records are one-sided. In that, it is a record that the adviser keeps from their perspective. There needs to be a **mutually agreed** record of the advice that both parties can rely on, not a record from one party, particularly for new/initial advice.

While we agree that there doesn't need to be regulation on method of delivery, there should be minimum requirements on content:

- Adviser Name and Relevant Provider name (if relevant) and possibly a link to the FSG.
- What the advice is
- Why it's been recommended (benefits and why it is 'good advice')
- Risks
- Fee Disclosure and Product Costs.

The client can then use this information and read over it at home to understand the advice provided. I can't even fathom how a client would make sense of an adviser's notes if that's the 'record of advice' they will be presented with – some are very hard to understand from my experience.

Fee disclosure needs to be standardised so a client can compare fees from one adviser to the next. They need to have clarity on the product fees they will be charged, and how they compare with other products. Without this, we are going back to pre-FOFA days when fees could be hidden amongst the fine print and missed quite easily. The outcome of this proposal will undoubtedly be clients paying too much for advice or being advised into expensive products that are technically 'good advice' but just way too expensive compared to other products. We will see product providers putting up their fees, as advisers will be able to easily skirt around disclosure as comparisons will no longer need to be provided to clients. It's a recipe for disaster – which will put us back to square one where consumers won't trust the industry.

The review takes on some very large assumptions – that most consumers who engage personal advice providers can understand financial concepts, source the information themselves from websites and product disclosure statements, and any records provided by an adviser. We do not agree with this assumption. They need to be presented with clear information to take affirmative action on their financial affairs. Without clear disclosure, it is confusing, and a client will not act, or worse - implement 'bad' advice.

The SOA is currently too compliance heavy and rarely do they assist the client's in understanding the advice. Removing the strict rules around the advice document structure, removing best interest duty, and instead mandating basic requirements (as per the bullet points above) will allow advisers to easily provide advice using software, in an engaging format, that describes the advice, but also provides enough information for the consumer to help them make an informed decision about their financial affairs.

This standard requirement should be applied to relevant providers and anyone that provides product advice. For example, where a relevant provider may provide a detailed document, a mortgage broker may provide a 1-page email outlining their advice. The client and adviser can then agree that this is a true record of the advice.

In our opinion, we simply cannot rely on all advice providers to provide appropriate disclosure, without having minimum disclosure requirements that is mandated across the industry.

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?

This is a small win, as most adviser business will keep their FSG on their website. It will assist though in the maintenance of FSGs, version control, and recording that it has been given to the client which does cause audit issues.

b. negatively impact consumers, and if so, to what extent?

The adviser may not be inclined to walk through the FSG with the client, which could mean that important things may not be explicitly discussed.

From my experience dealing with consumers, they don't really understand the FSG either, so this may impact consumers where they must understand the FSG themselves. Sometimes the websites are difficult to navigate, finding it hard to find the FSG. Sometimes links are broken.

A link to the FSG in the SOA (as per question 11) might be worth considering as a mandatory requirement, to ensure this is being provided to the client.

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 believe these amendments will remove the compliance cost burden for adviser businesses and agree with the changes.

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

There needs to be a 3-to-4-year transition period in order to implement these reforms. There will be changes in policy, training advisers and other staff, changes to the audit programs. Licensees will need to determine how they will measure 'good advice' and what their representatives need to do to provide good advice.

Software programs will need to be re-configured to accommodate new fact find documents and advice outputs, as well as other fields which may need removing or adding to accommodate the new law. There is limited capacity by consulting firms and other professionals to assist licensees to prepare for this change which need to be considered.

Clients will need to be advised of any changes which will impact them.

Licensees themselves will more than likely use their business rules as a way to differentiate their propositions, so I feel advisers will need time to decide on who they want to align themselves to in the long term which takes time to switch over.

Some of these reforms will displace compliance people and paraplanners, and therefore they will need to find other roles.

ASIC will need to be prompt in responding to the changes and how it will be regulated, so the industry can then adopt their changes.

PI insurers will also need to be comfortable in insuring advice providers, and this may also take time before they offer policies in the new regulatory environment.

15. Do you have any other comments or feedback?

No.