

Response to financial adviser professional standards consultation paper

Date feedback provided: 05/09/2022

Thank you for the opportunity to submit a response to this proposal. I am a Certified Financial Planner® (CFP®) and member of the FPA (Financial Planning Association), and have been advising since 2005. I wish to note that I do not agree with a previous submission made by the FPA in February 2022 (on financial adviser education standards) claiming their members did not support the proposed experience pathway proposal at the time. I do not recall being asked for my opinion as an FPA member on this.

I am very pleased that this proposal properly acknowledges and gives due credit to the value of experience for existing financial advisers.

I strongly support the introduction of an “experienced adviser pathway” as an alternative to further tertiary education.

I agree there should be formal acknowledgement that many existing advisers have developed the specialised knowledge and skill required to operate as ethical financial advisers through significant working experience.

Timeframe

I concur that it is vital for financial advisers to display competency in the required body of knowledge, skills and expertise over a long period of time, and believe this can adequately be proven for existing financial advisers based on the proposed 10 years full-time equivalent experience for those who hold a clean disciplinary record.

I agree that the proposed timeframe for the experienced pathway is appropriate as it covers significant periods of market growth as well as market downturns including the period of the global financial crisis. During this time period, there were also significant and onerous legislative, operational and compliance changes for financial advisers to adapt to. On-the-ground experience in navigating these market conditions, client communications and legislative/compliance/operational changes, in my opinion, is a far better indicator of an adviser’s competence and skill than any formal education.

While not possible for many existing advisers to provide evidence of the number of hours they physically worked since January 2004, since many are/were self-employed, to ascertain if they meet the 10 years of full-time equivalent experience, a stat dec could be a way for advisers to provide confirmation of estimated work hours. For those who were employed by independent employers, employment records could be requested as a means of confirming work hours for those submissions that may be audited.

Clean record

I agree this is an important factor in determining if an adviser should qualify under the experienced pathway and agree that isolated incidences of minor misconduct should not be sufficient to disqualify an adviser.

I believe the proposed method requiring an adviser to have no disciplinary actions recorded against them on the FAR is appropriate but insufficient. I would suggest including questions for current licensees to confirm that there have not been any identified significant issues of misconduct or non-compliance, as further evidence supporting the claim of a clean record. Current licensees would have been required to conduct due diligence on advisers transferring from other licensees and should have some knowledge if there were any previous significant conduct/compliance issues. It is not practical for advisers to request this confirmation from previous licensees as many of those have since ceased operations or may be unwilling to do the additional work for advisers no longer paying them. Advisers also would have received regular client/file audit reports from their licensees, a sample of which could be submitted if further evidence is needed.

I propose further consultation with licensees and financial advisers to devise a list containing specific examples, based on commonly identified issues of misconduct or non-compliance, to provide guidance on what may be significant enough to warrant an adviser being disqualified from having a clean record.

Maintaining a clean record

It seems logical that if future misconduct occurs, those advisers who had previously accessed the experienced pathway should be required to undertake further education that addresses the area of misconduct, to further encourage the upholding of high standards. I would propose that the timeframe for this be limited to the period up to 1 January 2026 to align with the dates for existing advisers who don't qualify for the experienced adviser pathway.

Applying through licensee

I agree that the proposed method of accessing the experienced pathway through the adviser's current licensee is appropriate, with further attestation from the adviser directly either through responses to a series of questions and/or provision of a stat dec.

I am concerned, however, how this would apply for self-licensed advisers as they don't have an independent third-party licensee attestation to support their claims.

It would seem logical that ASIC pay closer attention to auditing submissions from self-licensed advisers. I suggest that self-licensed advisers perhaps be asked to provide additional evidence to support their claim of a clean record, such as external client/file audit reports.

Ongoing demonstration of required knowledge, skills and expertise

This would be captured by the existing ongoing requirement for 40 hours of CPD each year, which I agree is appropriate for both existing and new advisers and is consistent with other professions.

Further tertiary education requirement

I do not support the current requirement for existing advisers to complete further tertiary education if the experienced pathway is not introduced.

I do not believe the additional cost (in time, money and sanity), in forcing advisers to undertake further tertiary education would be of significant benefit for advisers who already have significant work experience, have passed the Financial Adviser exam and are already required to complete 40 hours of CPD each year.

If specific education gaps become evident, I propose these could be tackled as mandatory units forming part of each adviser's annual CPD.

Further tertiary studies would be an additional burden for advisers who, as confirmed through comprehensive studies (refer to AIA Australia's *Australian Financial Advisers Wellbeing Report*, a mental health survey conducted by peak performance researcher Adam Fraser and Deakin University) have been experiencing years of significant levels of stress (and continue to experience) far in excess of many other professionals after having to navigate negative press, massive amounts of operational/legislative change, declining revenue, increased compliance burdens and increased costs (that have had to be passed on to clients to keep a business viable).

Forced additional tertiary studies, in my opinion, would not improve client outcomes for experienced advisers, would further increase client advice costs, and would contribute to the further decline of the mental health of financial advisers.

Introducing an experienced pathway would likely encourage more advisers to work for longer, who may currently be considering early retirement/change of occupation if required to complete further tertiary education. Considering the massive loss of advisers that has already occurred in recent years, the introduction of an experienced pathway may help to stem the flow of adviser exits from the profession.

I acknowledge there are advisers who have already commenced (and perhaps completed the tertiary education required under the existing rules) who may qualify for the experienced pathway. This may upset advisers who have already invested time and money to study, but I do not believe this is reason enough to force others down this same path (or for those who have started but not yet completed the studies to have to continue to add to this burden). I therefore do not believe this is sufficient reason to shut down the "experienced adviser pathway" option for those who wish to use it.

In more than 17 years advising, I have not once been asked about my education or qualifications by a client. For this reason, I believe there would be no impact on consumer confidence in the financial advice profession by allowing advisers to demonstrate competence through an experienced pathway as opposed to further tertiary education.