



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

Scott Everingham trading as Finplan of the Gold Coast:

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, I only agree that a licensed financial planner/adviser should be the only entity allowed to provide personal advice.

I do agree that the current obligations and laws are complicated and replicated and should be both less complex and streamlined towards 'The Advice Required' and not so weighted towards consumer protection as this adds to risks and increased costs of delivering the advice.

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?

Reduce regulatory uncertainty – only with regards to the removal of General advice combined with a less complex and streamlined laws. Without these, it will actually increase regulatory uncertainty by removing the limitations of General advice and its application for its use as it currently stands.

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 proposed framework will only provide further segregation between conflicted advice from a product provider and may confuse the consumer that they may be receiving 'Financial Advice' when they are not.

General consumer protections are basically useless to the 'Normal Person' and 'trying' to make a complaint to ASIC, APRA or the ACCC etc. is basically impossible due to Government system stifling (e.g. complex or little to no systems available or long phone waiting times etc.)

Give it a go, try to ring any Government agency or acquire 'how to make a complaint' information from a google search and you will quickly be brought back to reality!

a) Good advice of any nature should only be provided by a competent and qualified person, that in turn are responsible for the provision of the advice and have 'adequate & assessable' compliant mechanisms for consumer protection.

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?

As per Michelle Levy's own comments on the Webinar dated 7 Sept 2022, she noted with regards to giving 'Good Advice', that the amount of analyses and file keeping would probably be similar to the current model. With this in mind:

a) The quality of advice for Personal Advice may have little impact from the Good Advice change, however it may be intensified where a relevant provider can no longer provide simple General or Factual Advice and must treat every piece of advice as Personal Advice, which in turn will require additional documentation such as an SOA or similar. A file note for General/Factual advice should suffice, to keep costs down.

b) That said, moving away from complicated process requiring the use of multiple long and complex personal advice documents such as SOA's, ROA's and Execution Only etc. and where this is replaced with a simple single 'Financial Advice Letter' (FAL) which can be used under all Personal Advice circumstances may reduce the cost of the provision of advice. This should also be available to be delivered and accepted/approved by the client via more contemporary ways such as email or advice CRM software systems. However, to get costs down to a reasonable level you need to reduce multiple layers of cost including but not limited to: red tape (laws), reduce paperwork (SOA's) and reduce overheads (licensee costs, PI, membership – TPB & FPA, AISC levies, AFCA costs) 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, moving away from the current SOA, ROA model under Good Advice should make it only slightly easier to provide limited advice. However, until the Risk of providing Limited advice is reduced, it will always remain undesirable or costly to provide due to the risk premium a professional will need to be compensated for the personal risk of providing that advice. Only under Law changes intensifying consumer responsibility and higher weighting to their signoff making the consumer responsible for limited and accurate data provided, limitations of advice requested would be required here. As well, the consideration of a limited liability schemes for relevant providers (e.g. like solicitors, accountant & doctors have).
- b) Good Advice obligations may make it easier to provide Digital Advice, but the true value or damage of watering down technological delivery is yet to be seen and should be reviewed early in the piece. Ask yourself, would robots make good doctors or solicitors and provide adequate advice in these areas?

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

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

- a) Moving to a simple single 'Financial Advice Letter' (FAL) used under all Personal Advice circumstances may better facilitate the provision of limited advice. Changes to the Laws to better protect the relevant provider and put more responsibility on the client for their actions. Moving to individual licensing and getting rid of the Middleman 'licensees' will help. Stronger regulation on PI insurance as they tend to stipulate many over the top outcomes regarding our current compliance requirements (i.e. advice with licensees APL, original signatures etc.). finally, ASIC should produce Proforma documents such as the suggested template for a 'Financial Advice Letter' (FAL), Fee Disclosure Statement etc to get everybody on an even playing field and stop the licensees and PI insurers dictating ridiculous terms.

- b) Provide a single name more accurately describing this advice, such as 'Robotic Product Advice' (RPA). More prominent Disclaimers confirming this is not financial advice, rather it is a robotic algorithm and consumer signoff indicating the risks of accepting synthetic or robo advice.

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 do not see any significant difference in the quality and provision of Personal Advice by a qualified relevant provider, accept for the delivery of General or factual advice which may become more difficult to provide. I believe allowing super funds and large product providers to provide limited advice remains absolutely conflicted and inappropriate and would fall foul of the outcomes of the Haynes Roal Commission and what he's recommendations are trying to fix.
- b) I would estimate the recommended 'Good Advice' changes may only provide a limited cost to provide advice of approx. 5% reduction. To create effective change here, you will need to reduce: red tape (laws), reduce paperwork (SOA's), reduce professional risk and reduce overheads (licensee costs, PI, membership – TPB & FPA, AISC levies, AFCA costs) etc.

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?**

No, the licensing obligations alone are not sufficient and a higher standard of advice can be met when applying minimum education standards with a set of professional standards designed to meet a well thought out set of outcomes.

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, it will be Much easier for the super trustee to provide personal advice.
- b) No, the unsuspecting super fund member may not receive the 'Advice they need' from an appropriately qualified relevant provider. Under this proposal the consumer will only receive conflicted product advice. This proposal is ridiculous and gives the QAR the appearance of being political and institutional motivated. It will do much harm and further erode the financial planning profession.

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) Only a slight regulatory reduction. My estimate is this may save approx. 10-15% time saving for this process. The FDS disclosure regime remains burdensome and expensive to operate.
- b) Regardless of being streamlined, the end consumer will see little difference, as they don't have to prepare or administrate the forms required. Its just 1 versus 2 signatures. The disclosure regime still requires consumers to pay the cost of administration. As well, the prescriptive timeframes mean it's impossible to complete a client Review including annual disclosure documents early!!! (i.e. prior to the review date as the FDS period is incomplete). It hinders an adviser ability to supply an efficient annual review process and at the same time seek informed consent regarding both the review and annual fee arrangement, giving them the only option of providing the combined review & disclosure docs within 60 days of the annual service agreement date. If not done this way, the adviser and consumer must split the process into 2 or 3 parts over a protracted timeframe leading to more complicated administration from the adviser's office, which equals higher client fees in the long run.

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) Yes, removing the SOA process should reduce the cost of advice, but only by a small amount given the continued need to meet similar analytic requirements regarding 'Good Advice'. I estimate it may save approx. 5% - 10% in time and cost.
- b) I believe some form of retrievable advice document must be provided, with an ASIC proforma being made which suits all advice (i.e. Financial Advice Letter). Because it may negatively impact consumers, unless the proposed changes require some form of reduced written or video advice. I've done this job for over 20 years, and the SOA document has been used to both present the advice and clear up any miss understandings between the adviser and client down the track. Examples, some clients become very forgetful when its in the best interest! On the other hand, I've had many client experiences or myself utilised and worked with many solicitors and accountants who don't provide their advice in any retrievable format which has ended up being poor advice with little to no ability for the consumer to retrieve a reasonable compliant hearing or compensation.

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, this will reduce the regulatory burden and makes a lot of sense.
- b) No, I don't believe it will negatively impact the consumer, as long as the FSG availability on the website or upon request. It would be a good idea to require the relevant providers letter head signoff and business card states: "Further details about our services and your rights can be found in our FSG"

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?

These laws are designed for the Product providers, and they are ridiculously burdensome for relevant providers and none applicable to the end consumer. This proposal will have a significantly positive impact on a relevant providers administration requirements and reduced cost to the consumer regarding their future DDO obligations.

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

Government needs to set realistic timeframes around their ability to legislate and prepare the necessary instruments and regulatory guides prior to any commencement date.

Then there needs to be time for the industry to interpret, construct policies and train relevant provides. (6 mths – 12 months)

Then relevant providers need sufficient time to become confident in applying the new rules and procedures. This includes formulating new documents and internal administration procedures (12mths – 24 months opt-in).

This process could be much more efficient if ASIC or the Government create appropriate proforma templates that **MUST** be used. This will stop/reduce licensee and PI insurers miss interpretation, added complexity and over compliance of procedures.

General**15. Do you have any other comments or feedback?**

Until you move to individual or self-licencing the individual adviser will never have true power and control of the advice process and its future.

I've witnessed too much political corruption in my +22 years as a licensed adviser (e.g. labour = industry super and Liberals = banks/institutions). Financial services is too important and need its own independent Government body that isn't politically motivated, including the protection of the super rules (e.g. Liberals COVID super early release). Stop seeking feedback and listening and supporting every conflicted body, such as industry super, trustees, product providers, banks & institutions, associations, and consumer groups etc.