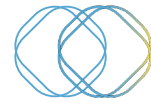


# Quality of Advice Review

## RESPONSE TO REFORM PROPOSALS

23<sup>rd</sup> September 2022



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Financial Group

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23 September 2022

Michelle Levy  
Independent Reviewer  
Quality of Advice Review Secretariat  
Financial System Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

by email to [AdviceReview@treasury.gov.au](mailto:AdviceReview@treasury.gov.au)

Dear Michelle

It is our pleasure to submit feedback on the recent Quality of Advice Review proposal.

Thank you for taking the time to consider my feedback, particularly as I believe my perspective is one which has had minimal representation during the process to date. I was hesitant to participate in the initial submission phase, believing my interests and beliefs aligned with that of both my professional association (AFA) and my licensee (Synchron).

My motivations are to participate in moving the advice industry to one which affords the highest level of respect from the community based on three key pillars: Access, Expertise & trust.

I have worked in the financial planning industry since 2013, drafting advice documents since 2014, becoming an authorised representative in 2015, through to becoming a partner of our families practice in 2022. During this time, I completed a Bachelor of Commerce (Finance), Diploma in Financial Planning, partial completion of a master's in financial planning, and in December 2022 will graduate with a Master of Business (professional accounting).

Whilst I respect the submissions given, and agree with some of the submissions I feel a large portion are conflicted in protecting their interests, and do not represent the opinion of individual practitioners.

Sincerely,

Luke Harlow  
Partner / Financial Adviser

## Introduction

The need to highly regulate a profession exists only when there is both a high risk to members of the public and a significant information asymmetry between providers and clients. History has demonstrated the substantial risk to consumers when provided poor advice, and that the lack of financial literacy in the general public warrants protections similar to the tax, legal and medical advice industries.

To mitigate this risk and asymmetry, the industry response has been to increase disclosure requirements. I would like to note the most common client response “I pay you so I do not need to understand all of this”. I would like to upload Treasury’s ‘refreshing’ approach to improving client outcomes. It is my belief the primary goal of better outcomes for clients can be achieved by the following:

- 1) Increase access to qualified advice
- 2) Lower the cost of qualified advice to consumers
- 3) Increase industry trust

## Licensing Regime (lower cost of qualified advice)

There has been substantial support from existing licensees to maintain the existing AFSL licencing regime, which is unsurprising given the considerable vested interest. It is my opinion that this regime be eliminated and replaced with registration to a governing body/s. All current functions can be facilitated through approved providers of a governing body.

The governing and licensing of advice should not be tied to a for-profit entity. Currently if an adviser is unhappy with the service of their license, it is at the discretion of the licensee when and on what terms they may move. It is not uncommon to see practitioners being restricted from moving license, until every client file has been audited by the licensee. This procedure is not in place for the betterment of the client, but to limit the trail risk to the license who has profited from the practitioner during their tenure.

The industry associations have dared address this issue, as it directly questions their purpose, and risk substantial sponsorships from licensees which keep them afloat.

As with other professional industries, the governing body may administer: Admission requirements (character, education and entrance exam), ongoing professional development requirements, Professional indemnity schemes, ongoing compliance, through approved panels of audit providers), and disciplinary body, providing additional level of consumer protection for misconduct.

I agree and support the other proposals made towards the licensing regime.

## Education

There has been significant push from segments of the industry to water down education and entrance requirements to provide advice. I endorse the current education/entrance structure completely, as I believe this results in both a greater level of trust and higher quality of advice. I would note this is consistent with both the legal, medical, and accounting professions. I acknowledge the short-term effect these have had on overall adviser numbers. A Key factor for joining the industry discussed with aspiring advisers at university has consistently been, “the lift in professionalism from the education and entrance requirements”.

## Appendix 1: Consultation Response

Name/Organisation: Luke Harlow – Queensland Financial Group

Questions
Intended outcomes
<p>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?</p>
<p>Yes, the level of mandatory disclosure and process currently result in a worse outcome, than would be achieved in a simplified regime.</p>
What should be regulated?
<p>2. In your view, are the proposed changes to the definition of ‘personal advice’ likely to:</p> <ul style="list-style-type: none"><li>a) reduce regulatory uncertainty?</li><li>b) facilitate the provision of more personal advice to consumers?</li><li>c) improve the ability of financial institutions to help their clients?</li></ul>
<ul style="list-style-type: none"><li>a) Yes, the proposed wording is clear and appears to be much less likely to be interpreted. The key focus I believe is to remove the ability of non-providers, to circumvent personal advice, by using the defence they were not taking into account personal information. I would note that clarity for providers would be beneficial, as to how they can provide general information to a client without any information given falling under advice. This may cause confusion if this was adopted without the elimination of Statement’s of advice for this type of ‘Advice’.</li><li>b) This proposed definition casts a wider net thus increasing the level of personal advice given. It creates a level of accountability when a providing what was known previously as general advice.</li><li>c) Yes, would result in greater focus from institutions on the opinions, and conversations their employees have with their clients. The definition change would result in any statement of opinion needing to actually benefit the client. This would probably reduce the overall instances of these opinion or recommendations being made, but drastically increase the quality, as they would now be accountable for the advice.</li></ul>

**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?**

I believe explanatory statements may be needed as there is significant confusion. I am aware of a number of "General Advice" licences who have marketed themselves to former risk advisers. They facilitate quotes and discuss benefits with clients, and allow them to come to their "Own Decision".

If this was to proceed, I believe disclosure of the fact these companies or individuals are not licenced to give advice needs to be implemented, as well as restrictions on remuneration. It would not make sense that an unlicensed person could receive risk commission or fee from a financial product.

#### **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) The simplification to provide "Good advice" does not reduce the standard of advice. I do not believe it increases the quality of advice, however it will allow greater access to advice. There are a number of situations where it is possible to put the client in a better position, however safe harbour and best interest duty dictate that it would not be satisfactory. This now allows more consumers access to advice which benefits them. This does not reduce the requirement to act in the best interest which is enshrined in the code of ethics.
- b) The best interest duty obligations created a significant legislated compliance burden on the process. The process to research and find the best strategy or product solution will not change, however it will remove a layer of administrative work which duplicates work already done prior.

**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, Best interest duty made scoped or limited advice almost impossible to justify. This change would significantly lower the hurdle to providing limited advice to consumers at a greater scale.
- b)** Technology solutions were limited by the requirement under Best interest obligations, as this is primarily used for limited/scoped advice. This creates greater freedom in the ability of digital advice to grow.

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

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

A) Not all areas of advice can be limited. There are a number of areas which do require taking into consideration of the broader effect. Flexibility in delivery of the advice is important as, certain areas are not financially feasible for providers.

**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) The quality of advice for “relevant providers” would not change, however it would open the door for mechanisms/structures to circumvent the relevant provider definition by altering funding structures. By connecting remuneration to being a provider, it creates a mechanism to completely circumvent this by vertically integrating. I would note it seems strange in a “Quality of advice” review to promote vertical integration, given the substantial conflicts that exist under this proposed change.
- b) Affordability would be increased drastically as large institutions/product providers can operate advice businesses outside the framework of personal 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) Not if they fall outside of relevant provider status. Given the types of advice can be almost identical, the same level of ongoing training should be required.

## 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) It will make the application of advice to members easier. Cost is the most substantial barrier to taking up advice in the superannuation space, and those who seek advice from their fund do so as they believe it is 'cheaper' or 'free'. This gives substantial leeway to trustees. I believe the take-up would be substantial by volume. The real question is will it be easier for super trustees to provide 'good advice' to members. Subsidisation of advice through collective charging should only be utilised for consumers with low balances which cannot be effectively serviced by 'relevant providers'. Balances over \$50,000 <55 year old of \$150,000 >55, would ensure access to the areas of the market which cannot afford the advice currently.
- b) No, the most significant time to receive superannuation advice is between 50-65. The vast majority of consumers have substantial balances at this stage. A huge contribution to lack of willingness to take out advice at these stages comes from 10 years of industry fund advertising, dismissing the benefits of paying for financial advice and the high cost of the limited advice to consumers.

## 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) Yes the cost to provide ongoing advice would be reduced substantially. Implementing a single fee agreement, renewed annually and delivered using modern technology, can reduce the cost of ongoing advice arrangements by 10% in our practice. The reduction in confusion, would also increase the client experience and increase the overall take-up of the service.
- B) There would be no impact to consumers as two consenting adults are engaged in an agreement for a fixed period. In the event a client feels they have not been provided value, they can request a service delivery letter, confirming services provided.



**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)** Absolutely, all currently research and compliance requirements are still being undertaken, however the process to convert all the research/compliance requirements into a standardised document warrants at least 3-4 hours of the total 12 hours for a simple advice document. It will also drastically reduce the time required to meet and explain the advice, which would involve at least 20 minutes per client.
- b)** It does open risks around interpretation of what should be disclosed to a particular client. There are risks that providers seek to work around this, however our ethical framework, and education requirements would ensure this type of person would not be registered. The other key issue is determining whether a client will be guaranteed to understand the advice they have been provided. Given all the elements required to demonstrate you have provided “good advice” still remain I do not believe this is a detriment to the client. In my opinion most providers will chose to at minimum ensure a written ‘letter of advice’ is provided to anything other than inconsequential verbal advice.

**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 is often a massive area of concern from a compliance audit standpoint given the penalties. Given my FSG is publicly available on my website and will soon be included in my email signature, this will simply remove a total waste of paper, whilst still allow those who wish to read the document access.

B) No negative impacts, as very few even read the document and those who do ask for a copy anyway.

**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) Streamline the requirements and also remove a massive layer of confusion as to what exactly is required at any given time.
- b) Reduce another 15-20 minutes per advice document, reducing the overall cost of the advice. Eliminating this is a no brainer as we are required to ensure the product is suitable for their circumstances anyway. For unfamiliar products these can be useful however almost always they are a check box procedure which does not benefit the client.

## Transition and enforcement

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

The initial step needs to be legislating a regulatory regime change towards a self-governed governing body. I believe it would be possible once legislated to transition in 24 months, ensuring licenses can transition and apply for approved status as a service provider under the new governing body. This step will take a substantial cost out of practices, with the current risk premium being charged for licences eliminated.

The removal of best interest duty/safe harbour, DDO, FDS, General advice and requirements for SOA's, should be repealed ASAP, and implemented within 6 months of passing legislation.

Tax deductibility of advice fee's or inclusion of a \$500 tax offset for lower income earners, would be implemented ASAP as well, and be substantially beneficial to addressing access/affordability, without bringing in the conflicts associated with vertical integration.

The changes to the ability to cross subsidise advice for financial institutions should be held off until the previous changes have been made, and at least 12-months has passed. This needs to be contingent on the previous changes not providing a sufficient uplift in access to advice.

## General

### 15. Do you have any other comments or feedback?

It is my opinion the AFSL licensing regime, is one of the key contributors to costs in the industry. The elimination of this by the appointment of a governing body, similar to all other professional services would ensure both compliance and simplified industry structure. At minimum, the prohibition on licences being a for profit entity.