



16 September 2022

Assistant Secretary
Advice and Investment Branch
The Treasury

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Consultation on financial adviser education standards

Key points

- AIST has a number of concerns about the proposed ‘experienced adviser pathway’ outlined in Treasury’s consultation paper. It risks undermining efforts to secure the status of financial advice as a profession worthy of widespread public trust and respect. Our preference would be to fully implement current educational requirements and then have their impact independently assessed after an appropriate period, such as 5 years, has elapsed.
- Alternatively, if the Government wants to proceed with the proposed pathway we recommend considering implementing supplementary measures that would enhance its integrity. These measures could include:
 - Increasing the minimum period of experience above 10 years;
 - Requiring pathway applicants to make a statutory declaration that they are eligible; requiring licensees to validate experience claims;
 - Providing ASIC with additional resources to undertake sample checks at a scale that will deter unsupported claims and enable enforcement consistent with public confidence;
 - Providing ASIC with explicit powers to order advisers who have accessed the pathway, but who then commit misconduct in the future, to complete formal education equivalent to other advisers.
- AIST agrees there is scope to amend current Professional Year settings to better facilitate the recruitment and professional development of new financial advisers. To this end we make several recommendations. These include giving consideration to:
 - Allowing licensees greater flexibility in relation to having to provide structured training, and

- Permitting provisional advisers in a phone-based context to notify clients of their status verbally rather than in writing.
- AIST supports continuing to require study of superannuation and retirement planning as part of the core knowledge areas covered by approved degrees. However, the proposed reduction in core knowledge areas from eleven to five lacks a clear rationale and evidentiary basis. We would welcome further clarification from Treasury on the reasoning for this proposed change.
- AIST recommends that any further work on amending current adviser educational standards should await the conclusions of the ongoing Quality of Advice Review and the implementation of the Government's response. The design and operation of educational standards should complement Government's settled view of how better advice quality should be defined and regulated.

About AIST

Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public sector superannuation funds.

As the principal advocate and peak representative body for the \$1.7 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST advocates for financial wellbeing in retirement for all Australians regardless of gender, culture, education, or socio-economic background. Through leadership and excellence, AIST supports profit-to-member funds to achieve member-first outcomes and fairness across the retirement system.

Submission

AIST welcomes the opportunity to comment on the proposals outlined in Treasury's recent consultation paper on potential changes to financial adviser education standards. AIST has consistently supported initiatives by Government that act to improve professional, ethical and education standards across the advice industry.

In the context of our compulsory superannuation system, fund members deserve to be able to trust the advice they receive about how their hard-earned savings should be invested and spent.

While lifting educational standards alone will not guarantee better advice, appropriate reform can make an important contribution to establishing the advice industry as a high-status profession worthy of public trust – one that more people want to use, and one that more graduates and others want to join.

Much of this submission focuses on three issues raised by Treasury's paper: the proposed 'experienced adviser pathway,' amendments to current Professional Year settings, and streamlining the core knowledge areas required by approved degrees.

Before discussing these issues in more detail we want to register our concern that the proposals and options outlined in Treasury's paper lack a grounding in data and other relevant evidence. In the absence of evidence about the nature and scale of the problems to be solved it is difficult to assess if the proposed solutions are proportionate and in the broader public interest.

We trust Treasury's paper is the first step in an ongoing consultative process in which the Government takes the time needed to consider appropriate evidence and to get standards right. In particular, as we recommend later in this submission, further work on amending current educational standards should await the conclusions of the ongoing Quality of Advice Review and implementation of the Government's response.

We look forward to continuing to engage with Treasury on these and other issues going forward.

Experienced adviser pathway

Treasury note that there is currently no pathway for existing advisers to meet prescribed standards that relies solely on their on-the-job experience. There is room to acknowledge that some existing advisers have developed sufficient specialized knowledge through significant working experience.

To this end, Treasury proposes the establishment of a new 'experienced adviser pathway' in which advisers with 10 years full-time equivalent experience in Australia between 1 January 2004 and 1 January 2019, and who hold a clean disciplinary record, will be eligible to continue to practice as an adviser. To these advisers, who will also have passed the advice exam and met CPD requirements, the current obligation to hold an appropriate tertiary qualification by 1 January 2026 will no longer apply.

It is proposed that individuals wishing to access this pathway will self-declare their eligibility when they apply. ASIC will not assess applications but will audit a sample of applications for compliance with the eligibility criteria.

AIST has a number of concerns about the proposed pathway.

Firstly, most advisers want their industry to be regarded as a profession that attracts public confidence and trust. Attaining professional status should require meeting certain common

educational standards. We agree with the definition of a profession offered by the Australian Council of Professions:

‘A Profession is a disciplined group of individuals who adhere to ethical standards and who hold themselves out as, and are accepted by the public as possessing special knowledge and skills in a widely recognized body of learning derived from research, education and training at a high level, and who are prepared to apply this knowledge and exercise these skills in the interest of others.’¹

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In the context of defining a profession ASIC has emphasized the importance of ‘specialised knowledge and skills in a widely recognized body of common learning that requires intense academic preparation.’²

These are among the reasons that current adviser education standards require obtaining an appropriate tertiary qualification, such as a graduate diploma, by January 2026. We note that many providers of these qualifications take account of accumulated experience when admitting existing advisers to their courses and when deciding how much further formal study is then required to obtain a qualification.

Also, experienced advisers without such qualifications have had since the passage of the *Professional Standards of Financial Advisers Act* in February 2017 to prepare to meet this standard.³ At the time of writing advisers still have over three years to comply.

Secondly, the proposal assumes that 10 years of on-the-job experience is a sufficient substitute for tertiary study.

In general, on-the-job experience alone is rarely an adequate substitute for relevant academic training. This is why professional bodies usually insist that experience by itself is not enough to attain professional status. The skills acquired through job-based experience can be uneven and strongly reflective of custom and practice in particular workplaces. Poor habits, gaps and weaknesses in knowledge may go unchallenged, undermining the quality of advice provided.

Relevant academic training insists that learners are educated and tested on topics, such as ethics, that may not receive sufficient attention when learning is organized around doing the job rather than satisfying professional standards. This is why mandating a common body of knowledge is important.

¹ <https://www.professions.org.au/what-is-a-professional/>

² ASIC (2014) PJC Inquiry into the financial services industry: submission by ASIC, p.6

³ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5768

Finally, the proposed policing and enforcement of pathway eligibility lacks rigor and may not attract public confidence.

It is proposed that individuals wishing to access the pathway will self-declare their eligibility when they apply. ASIC will not assess applications but will audit a sample of applications for compliance with the eligibility criteria.

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This approach combines reliance on self-regulation with a degree of review by the regulator. Given well-known advice scandals and continuing negative public perceptions of the advice industry these arrangements may not be viewed as sufficiently robust.

In addition, it is not clear if ASIC has the capacity and access to relevant information to undertake sampling at a scale that would amount to effective deterrence and enable it to assess compliance by applications that claim experience and clean records going back 10, 15 or 20 years.

Recommendation: AIST is concerned that the proposed pathway risks undermining efforts to secure the status of financial advice as a profession worthy of widespread public trust and respect. Our preference would be to fully implement current educational requirements and then have their impact independently assessed after an appropriate period, such as 5 years, has elapsed.

Alternatively, if the Government wishes to proceed with the proposed pathway, we recommend giving consideration to implementing a number of measures that would enhance the pathway's integrity. These include:

- Increasing the minimum period of experience above 10 years;
- Requiring pathway applicants make a statutory declaration that they are eligible;
- Requiring licensees to validate experience claims;
- Providing ASIC with additional resources to undertake sample checks at a scale that will deter unsupported claims and enable enforcement consistent with public confidence.
- Providing ASIC with explicit powers to order advisers who have accessed the pathway, but who then commit misconduct in the future, to complete formal education equivalent to other advisers.

The Professional Year

Treasury's paper seeks views on how the current structure and content of the Professional Year (PY) requirements could be amended to allow a more principles-based approach that better facilitates the recruitment and professional development of new financial advisers. AIST recommends consideration be given to amending several aspects of the PY:

- The PY could better support phone-based advice delivery models by allowing Provisional Advisers to notify callers of their status by verbal means, rather than requiring such information be communicated in writing prior to the provision of advice.

- In a context where new Provisional Planners have a relevant degree, licensees should be allowed the flexibility to replace some or all of the 100 hour structured training requirement with approved CPD activities.
- The current exam should be designed to allow new entrants to be tested on knowledge relevant to the situations they will encounter in practice. Some case studies in the exam, such as those dealing with SMSFs, relate to scenarios that many advisers will encounter very rarely and would anyway require them to consult with subject experts before providing advice.

Recommendation: AIST agrees there is potential to streamline aspects of current PY requirements, and recommends consideration be given to implementing the amendments outlined above.

Core knowledge areas

The paper says that for new entrants the requirement to have a bachelor's degree (AQF 7) or higher will remain. At present approved degrees are required to cover eleven core knowledge areas such as Commercial Law, Taxation and Superannuation & Retirement Planning. The paper argues this number of mandatory knowledge areas may be too many, limiting the range of degrees that are eligible as entry pathways into the advice industry. It is suggested that the number of core knowledge areas be reduced from eleven to five, now excluding Superannuation & Retirement Planning.

AIST does not support excluding Superannuation & Retirement Planning from the proposed shortlist. Superannuation is compulsory and is the most widely held financial asset in Australia. It is also the highest value asset for many Australians. In this context it would be inappropriate to exclude study of superannuation from the common body of knowledge required for aspiring professional advisers.

AIST notes that while there may be a case to reduce the current number of core knowledge areas covered by approved degrees, the proposed reduction from eleven to five and consequent exclusion of areas such as 'Financial Plan Construction' and 'Behavioural Finance' lacks clear reasoning. If this proposal reflects thinking by some in the financial advice or education sectors it would be useful to know their reasoning and why Treasury agrees.

Recommendation: AIST does not support dropping Superannuation & Retirement Planning from the core knowledge areas required by approved degrees. In relation to the proposed streamlining of knowledge areas we would welcome feedback from Treasury on why a reduction from eleven to five core areas is thought appropriate, and on what basis the six areas to be dropped have been chosen.

The Quality of Advice Review

The current Quality of Advice Review being led by Michelle Levy is ongoing and has recently issued a set of proposals that, if implemented, will have significant implications for those who

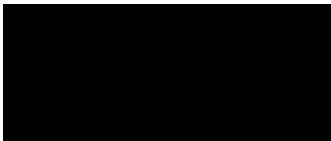
work in and use financial advice. It makes sense that work to reform advice education standards should await important decisions by Government that will determine the broader regulatory context in which any new standards will be expected to operate.

Recommendation: AIST recommends that any further work on amending current adviser educational standards should await the conclusions of the ongoing Quality of Advice Review and implementation of the Government's response. The design and operation of educational standards should complement Government's settled view of how better quality advice should be defined and regulated.

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For further information regarding this submission please contact Michael Fisher, Policy & Regulatory Adviser at mfisher@aist.asn.au.

Yours sincerely,

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