



3 June 2022

Quality of Advice Review Secretariat
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: AdviceReview@treasury.gov.au

Dear Ms Levy,

We attach our submission to the Quality of Advice Review.

Should you have any queries, or wish to discuss further, please contact me on 0411 153 388.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Matt Lawler".

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Treasury - Quality of Advice Review

AMP Advice Submission

3 June 2022



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1. Introduction

AMP welcomes the opportunity to provide a response to the Quality of Advice Review (the Review) consultation paper.

AMP has played an important role in the provision of advice to Australians over many decades and AMP supports reforms to make advice more accessible and affordable.

We believe the need for advice has never been greater, with individual's superannuation accounts growing and the complexity of decision-making increasing.

We also support a regulatory framework that:

- Provides protection and confidence to the consumer when receiving and paying for financial advice;
- Allows consumers to access financial advice in the way they would like to access it;
- Promotes a trusted profession that increasingly moves towards self-regulation.

Sadly, since the introduction of the Future of Financial Advice (FoFA) reforms and subsequent legislative and regulatory reform, the cost of advice has increased such that it is now out of reach for many Australians. According to research commissioned by the Financial Services Council (FSC), KPMG has assessed the cost of the advice process at \$5,334.

The increased costs for the consumer reflect the increased costs for owning and operating a financial planning business. The impact of increased and complex regulation has increased the input costs of businesses. These costs include additional staff to deal with increased requirements per client file, additional education costs, increased licensing costs and a crisis in the costs and availability of professional indemnity insurance for the uncapped liability of running a licensee.

Worse still, over the last three years the number of advisers in the sector has fallen dramatically from approximately 28,500 in January 2019 to approximately 17,500 in early 2022.

There are no signs of these trends changing.

In the current environment, the traditional face-to-face (including via video calls) advice model is under significant pressure. Advice has become too expensive. If the Government wants to broaden access to advice, options include:

- lowering the costs of the existing model;
- developing new models with lower operating costs, e.g. digital advice, or limited advice models; or
- a hybrid of the above.

Ultimately, the recommendations of this Review should seek to achieve all of the above, as these models serve different market segments and are equally valuable to their respective market.

As pointed out in the Quality of Advice Review Issues Paper, there has been substantial structural change and fragmentation of the industry over recent times with the banks exiting advice, commissions being largely abolished, remediation programmes being completed and the financial sustainability of licensees becoming more tenuous.

The top five advice companies now have only 21% of market share (compared to 36% in 2017) and the number of AFS licensees with 500 or more advisers was one – AMP Financial Planning – as of February 2022.

2. A robust AFS licensing system enabling quality advice

As one of the largest AFS licensees in Australia, AMP has a significant stake in promoting a vibrant and consumer-focused financial advice profession.

This means undertaking the dual task of retention of remaining quality advisers, and attracting a new generation of professionals to join, be trained, developed, monitored and empowered to deliver more quality advice to more Australians.

AMP has actively supported new advisers to the profession within its Professional Year (PY) support program, representing one of the sector's largest PY development programs today.

These emerging advisers, along with more experienced advisers, operate within a professional ecosystem where the Corporations Act provides overarching consumer protections and accountability for the advice consumers ultimately receive.

Along the professional pathway, the important 'checks and balances' oversight functions of monitoring and peer review are the responsibility of AFS licensees, which in turn operate within the obligations set out in the Corporations Act.

Each licensee – like AMP Financial Planning, Hillross Financial Services and Charter Financial Planning – also provides additional consumer protection functions via internal and external dispute resolution schemes (IDR and EDR). IDR and EDR schemes are important inclusions to the practical role of the AFS licensee.

Together, these combinations of factors ensure that financial advice is compliant and appropriate but is also systematically monitored for its quality, consumer best interests focus and to maintain a system of competence that is oriented around doing what is right.

Vitality, should things go wrong, the AFS licensee also provides the capital base to set breaches or mistakes right through effective remediation.

Each year the AMP monitoring and supervision program checks a large number of files, providing feedback to advisers to improve their professionalism, and also providing additional comfort to the advice consumer.

A strong observation of this submission is that a well-functioning professional advice market is complemented by the AFS licensee, with a commercial incentive to continue providing a full spectrum of support services: from enabling the next generation of advisers with professional year supervision, their professional development and training, to monitoring and checking, operating complaints schemes, identifying and performing remediation, and providing additional support.

3. Approach to this submission

The Quality of Advice consultation paper poses 83 questions.

The Financial Services Council (FSC) in its submission addresses all 83 questions and AMP has provided input into some of the FSC's responses. AMP also supports the submissions made by the Financial Planning Association (FPA) and the Association of Financial Advisers (AFA) of which we are a member. In addition to this, AMP has worked closely with other Australian Financial Services Licence (AFSL) providers to provide a submission to assist the Review with areas where there is a common objective. All of these submissions have common themes and as a significant AFSL in the market we are prepared to devote time, energy and resources to assist the sector in working through the detail of much needed reforms to the current regulatory framework.

AMP's advice licensees do not employ advisers. Instead, they appoint small businesses and their directors and employees as their authorised representatives to provide advice and dealing services on their behalf.

Accordingly, we have identified issues that could be addressed in the short-to-medium term, with immediate benefits to consumers and advisers:

- A uniform approach for fee consents, with standardised forms and processes
- The length and complexity of Statements of Advice (SOAs) and how they could be more client friendly
- The Hayne proposal for the abolition of life insurance commission payments
- Letters of Advice (rather than SOAs) to be used for simple advice
- The 'safe harbour' provisions s961B(2) of the Corporations Act be removed
- The acceleration of Consumer Data Right (CDR) for access to government and superannuation data

4 Changes that could be implemented in the short term

The foreword to the Review notes that:

"The framework should assist the people we entrust to provide financial advice to do so as effectively and efficiently as possible."

AMP considers that there are six reforms that could be considered and implemented in the short term that will improve efficiency for advisers and result in more effective communication of the advice being given – enhancing the utility and value for consumers.

4.1 Fee consents

Fee consent arrangements were discussed in para 4.4 of the Issues Paper, where it indicates that the Review would welcome feedback on the requirements for consent to deduct advice fees from superannuation accounts.

The objective of this proposal is to create a uniform and standardised process so that clients only need to sign a limited number of forms to implement advice rather than the many forms from the licensee and issuers that are currently required (we have provided examples to Treasury as part of this Review).

The current situation is that the financial advice market has largely divided into advice firms that are part of the Ongoing Fee Arrangement regime, including the giving of Fee Disclosure Statements and Renewal Notices, and those firms that are using Fixed Term Agreements (FTA).

While there are some distinct differences, they provide consumer protection in that under both arrangements fees can be turned off at any time, there is an annual agreement process and all fees and the services provided are clearly disclosed.

Given that fees are predominantly charged off the platform or from a super fund then there is a duplicated process including multiple times where fees are disclosed (Financial Services Guide, SOA, AFSL fee consent, Super statement, etc.) and the requirement for a signed client authority (SOA authority to proceed, AFSL fee consent, super fund fee consent) resulting in increased work for the client and the financial adviser to do something which is agreed upfront.

One option to improve the client experience (less paperwork) and to reduce the administrative cost burden on financial advisers (who are predominantly small business owners), the financial services sector could move to a uniform approach with standardised forms and processes for product issuers.

A precedent to look at is the standardised roll over process that was introduced by the ATO several years ago.

Recommendation 1: AMP proposes that the sector move to a uniform approach to fee consent arrangements, with standardised forms and processes focussing on reduced paperwork for clients.

4.2 Statements of Advice

An SOA is a compliance document that consumers are often hesitant to read in full because of their length and complexity.

ASIC has claimed publicly that they believe SOAs should be much shorter, and that the financial advice sector is 'over doing it' when it comes to what is included in the SOAs. This is supported by the requirements in the Corporations Act which do not prescribe a length for the SOA and contain only a limited number of content requirements.

However, the financial advice sector claims that the regulatory guidance notes contradict this notion, and the financial advice community still believes that ASIC will manage them in a prescriptive way to the highest standard which creates risks if deviating from what is expected today. As a result, SOAs have become unduly long and defensive documents.

AMP proposes that the financial advice sector should work collaboratively with ASIC to 'rethink' the purpose, size and inclusions in the SOA and agree on standards which can continue to protect the consumer whilst being a document that is more consumer friendly.

After a brief period of consultation, ASIC could finalise a set of principles via regulatory guidance to set the standards for SOAs in the future.

In our view, a letter no longer than eight pages that a client can easily read and understand should be the goal. The letter would contain only the information that is useful to clients. Other documentation could be included by way of attachment, if necessary.

Recommendation 2: The content requirements of SOAs should be reviewed by ASIC, in collaboration with industry. The outcome of that process should be reflected in a new regulatory guide specifically for letters of advice.

4.3 Life insurance commissions

We are concerned that there would be a poor level of uptake by consumers with a fee-only model which would lead to substantially low levels of life insurance for Australians.

The mortgage industry has shown that there is a safe pathway for appropriate commission structures.

In the past, life insurance sales have been characterised by high upfront commissions which many argue resulted in churn. In order to address this problem, the Government legislated the Life Insurance Framework reforms in 2017. These reforms included a change to the way in which advisers could be remunerated for life insurance advice, with upfront commissions being capped (now settled at 60% of initial premium) and a maximum ongoing commission of 20%.

The aim of these proposals was to try to find a balance between mitigating consumer detriment from conflicted advice, yet still continuing to facilitate consumer access to life insurance by keeping upfront advice costs low and businesses sustainable.

Following the implementation of the Life Insurance Framework reforms, the Royal Commission looked at a number of cases of mis-selling and made the following recommendation:

‘when ASIC conducts its review of conflicted remuneration relating to life insurance risk products...ASIC should consider whether further reducing the cap on commissions in respect of life risk insurance products (should occur). Unless there was a clear justification for retaining those commissions the cap should be ultimately reduced to zero’.

In our view, there is a strong case that the current commission caps should be retained and raised slightly.

We support the FSC’s view that the Life Insurance Framework has been successful in addressing the issues raised by ASIC in their 2014 Review into Retail Life Insurance. We note though an additional data point supplied by NMG that the number of advised life insurance policies has also declined since that review. As an advice licensee AMP is concerned with the additional conclusions by the FSC that the underinsurance gap has increased, particularly in the segments of: self-employed people without default cover in their superannuation funds, single parents in younger ages, couples with or without children in older ages, and the sole income earner in higher earning families. This speaks also to sustainability concerns with life insurance companies as new business levels have reduced dramatically and with lower levels of new clients (and potentially healthier clients) the “pooling” capability so important to the longevity and sustainability of insurance companies also comes under pressure.

Life insurance is low risk when it comes to client detriment. Over-selling of life insurance is rare as there are many consumer protections in place including the Best Interests Duty, IDR, EDR, adviser education requirements, single disciplinary body, etc.

Given it is lower risk, and younger people are likely to benefit, several things need to happen. For example:

- life insurance needs to be easier to advise on;
- life insurance advice should be done standalone and have a separate requirement for advice i.e., is outside of the SOA regime and have its own set of standards; and
- commissions should be raised to 80% upfront and 20% ongoing which more appropriately rewards financial advisers for their work and will reverse the trend of the current exit of

advisers providing occasional advice on life insurance which in turn will provide more access to life insurance advice and coverage.

Mortgage broking sets the precedent for a commission system that can work to create the necessary consumer benefits with appropriate protections.

Recommendation 3: That the current commission caps system be retained with a review on the level of upfront to more appropriately reflect the work required and increased, Commissions lower the initial cost of advice, thereby rendering it more affordable, and increase access to advice in relation to life insurance, is a critical advice need, given the current levels of underinsurance in Australia.

4.4 Accessibility of advice

The SOA regime is necessary where there is full or holistic advice but is impractical when it comes to providing clients simple advice on a single issue. Clients with simple needs for one-off pieces of advice are often unable to obtain advice as many financial advisers cannot afford to serve them. In addition, many advisers are concerned to provide one off pieces of advice rather than holistic advice for fear of not complying with all regulatory requirements. This precludes Australians from building trust with financial advisers through several interactions of smaller, one-off pieces of advice over a period of time before entering into a more meaningful relationship down the track.

AMP considers that the concept of a “Letter of Advice” (as proposed by the FSC) should be introduced where financial advisers provide one-off pieces of advice. The types of advice could be prescribed through a regulatory guidance note, or regulations, which would effectively define the scope upfront, reducing the time to determine the scope of advice through extensive inquiries about the client’s goals and circumstances. Consideration could be given to capping the fee payable, for example, \$700 plus GST if there were concerns, however FASEA standards already require professionals to ensure their fee is commensurate with the work completed. Consumer protections are still in place through a written disclosure document, adviser registration and education requirements as well as IDR, EDR, single disciplinary body, FASEA standards etc.

The document could be a simple letter which makes it clear that the advice is scoped in nature and proceeds to provide the relevant advice on a one-off issue. Guidance as to a standardised disclaimer to make it clear that the advice is one off in nature could also be developed to avoid the possibility of these documents becoming unduly long or defensive in nature.

Recommendation 4: A simplified disclosure document (a brief letter) should be introduced for certain limited advice that is one-off in nature. The areas of advice that can be documented in this way should be prescribed, and standardised disclosure should be developed for the industry, to ensure consumers understand the limited nature of the advice being provided.

4.5 Revisit the ‘safe harbour’

The Best Interests Duty and the safe harbour regime were contentious issues when they were legislated in 2013 and were also during the Financial Services Royal Commission.

Commissioner Hayne in his final report (Recommendation 2.3) said:

‘the quality of advice review should consider whether it is necessary to retain the safe harbour provisions in section 961 B(2) of the Corporations Act and that unless there was a clear justification for retaining that provision it should be repealed’

The financial advice sector has changed markedly since it was introduced in 2013.

At the time of its introduction many financial advisers wanted a series of legislated steps to ensure that they met the Best Interests Duty rather than have to comply with a ‘nebulous’ best interests duty.

However, subsequent developments since 2013 including the FASEA reforms and the greater professionalisation of the sector raise the question as to whether the safe harbour provisions all now necessary.

The system has now developed into a ‘tick a box’ compliance regime which is more onerous than other jurisdictions and substantially more than other professions i.e., accountants, lawyers and medical professionals.

AMP considers that the safe harbour provisions of section s961B 2(a)-(g) should be repealed, but in the meantime file and record keeping requirements should be reviewed to allow a more practical, more commercial expectation of financial advisers which are more in line with other professionals.

<p>Recommendation 5: Remove safe harbour steps (consistent with FSC position) from the Corporations Act and replace with a clear and concise regulatory guide that reflects the intention of the safe harbour steps.</p>

4.6 Consumer Data Right and Open Finance

The Government has completed the rollout of Consumer Data Right (CDR) to the banking sector (Open Banking) and is now looking to expand to other sectors.

AMP considers that government data, such as the data in MyGov, should be the next priority for CDR. An ‘Open Finance’ approach would deliver measurable benefits to Australian consumers, who retain ownership of their data and would participate on an opt-in basis as per existing CDR arrangements.

Efficient access and use of relevant financial data is one key to the delivery of more affordable quality advice options. Simple, one-off advice interactions would be enabled by the introduction of a combination of a more streamlined consumer approval process (Letter of Advice, for example) and CDR access for this purpose.

Moreover, AMP believes that an Open Finance system, with CDR at its heart, would transform quality advice efficiency, access, affordability and also drive innovation in delivery and servicing to a new cohort of consumers who today are either under-advised or simply not advised at all.

AMP foresees the circumstances of a young family, currently under-insured, that is able to efficiently and quickly provide relevant life insurance, superannuation balance and taxation data to their financial adviser. Allowing advisers secure access to this data, as well as allowing them to scope their advice by reference to that data, would go a long way to allowing advisers to provide quick and cost-effective advice on a scoped area to consumers.

Currently, financial advisers are required to research and investigate circumstances of clients in order to make their recommendations. Often this information is difficult for the client to access

which pushes out timeframes for the delivery and implementation of valuable advice to consumers. It also makes it difficult for advisers to know whether all of the relevant information is compiled.

AMP understands that opening government data to CDR may take time, and considers in the meantime, with client's consent, that financial advisers should have access to MyGov information in the same way that a registered tax agent does. This would include MyGov and Centrelink information where the financial adviser acts on behalf of the client often navigating them through complex requirements.

Open Banking has been successful for mortgage brokers to get access to client transaction information to build a profile of a client's cashflow and budgeting position for accessing loans etc. In our view, once access to government information is obtained, this could be expanded to access to the information held by super funds and insurance companies under Open Finance. This allows financial advisers to stop spending large amounts of time collecting data on behalf of clients.

Recommendation 6: The expansion of the CDR regime to Open Finance should occur as soon as possible. Areas to be prioritised include providing access to certain government data, such as that held by Centrelink and MyGov, as well as expansion to the superannuation sector, as this will significantly reduce the time taken for advisers to develop their advice, thereby lowering the cost of advice for consumers.