

A person is running on a suspension bridge, viewed from behind. The entire image is overlaid with a semi-transparent green filter. The person is wearing a light-colored hoodie, dark pants, and bright sneakers, and has a backpack on. The bridge has metal railings and chain-link fencing. The background shows a dense forest.

GET IN SHAPE

WEBINAR SERIES



Advice process, documents and compliance

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Agenda

- What are the legal obligations regarding advice process, documents and what is compliant advice
- The advice process and what is changing
- Assessing compliant advice



Legal obligations: advice process, documents and determining compliant advice

- No specific legal basis. However, need to consider the FMCA duties and the Code
- Duty to meet standards of competence, knowledge and skill s431I
- Duty to ensure client understands nature and scope of advice s431J
- Duty to give priority to client's interests s431K
- Duty to exercise care, diligence, and skill s431L
- Duty to comply with code of conduct s431M
- Duty relating to offer that contravenes Act or regulations s431N
- Duty to make prescribed information available s431O
- Don't make false or misleading statements and omissions s431P



What is suitability and client understanding?

- Must ensure advice is suitable for the client having regard to the nature and scope of the advice
- How do we determine suitability?
- Must take reasonable steps to ensure the client understands the financial advice
- What are reasonable steps?
- How do we ensure the client understands?



Advice process & what is changing

- Can have advice delivered digitally or by humans
- Does not legally have to be in writing
- Need an audit trail to prove meet the duties and the code
- Have a documented advice process
- CRM to have checks to ensure all docs completed and uploaded
- Peer review advice/files
- Regular training on advice
- Engage a compliance provider to do file reviews. Larger entities will have compliance officer
- Focus on constant improvement (QA and client feedback)
- Don't forget step 6



Common advice documents

- Publicly available disclosure documentation
- Scope of engagement- can be incorporated into the fact find
- Fact find
- Some method for communicating stage two disclosure
- Statement of advice
- Some method for communicating stage three disclosure
- File notes
- Stage 4 disclosure document for complaints
- Annual review documents

Assessing compliant advice

- Has the scope been set?
- Is it clear what the client goals are?
- Are the recommendations within scope and achieve the client goals?
- Has sufficient information been provided to enable the client to make an informed decision?
- Is it clear, concise and effective?
- Is the client likely to understand it?
- Is the advice 'balanced' and not misleading, deceptive or confusing?

Summary

1. Advice should be tailored to the client
2. Must meet the duties under FMCA and meet the code
3. This is a principles based regime
4. Be innovative in the advice delivery
5. Get signoff on your templates then keep up to date
6. Have the requisite competence, knowledge and skill to provide the advice

Next Steps

Review your advice process

Seek professional advice

Gain client feedback and constantly improve the process and advice documents

Next Webinar

- **Navigating the education obligations**
- Date: Friday 25 June, 9.30am
- Registration details can be found on the [FSC website under 'Events'](#) and will also be sent via FSC emails
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