Advice

The Australian Journal of Financial Planning

Volume 18 Issue 02

Whitepaper

A new era for financial advice

Quality of Advice Review

Treasury unveils first round of recommendations

Featurette

Finfluencers plug advice gap

FORWARD THINKER

Kearsten James, Addi House

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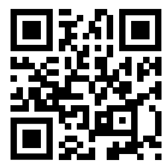

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Christopher Page
managing director
Financial Standard

Birds of a feather

There is a sense of togetherness in the financial advice industry that is becoming more palpable by the day.

Perhaps it was the inevitable coming together of Australia's two major advice associations, the Australian Financial Advisers Association and the Financial Planning Association of Australia, to officially become the Financial Advice Association Australia (FAAA) in April that spurred a renewed sentiment after a challenging few years.

In an effort to bring members together, the FAAA launched the United Association Roadshow in May, traversing 10 cities and regional hubs.

FAAA chair David Sharpe told the Sydney leg that from a heritage point of view, some advisers would align themselves with the AFA or FPA brand – sometimes for decades.

"And it can be a bit sad to say goodbye," he said. "But we're hoping everyone can unite behind the FAAA. As one member said to me, 'Dave, it's not what we're called, it's what we do that counts.'"

Sadly, more advisers choose to hang up their boots. But it is the ones who remain, albeit smaller in numbers, who will have big, influential and united voices to advocate for the profession that will have a deep impact resonating the halls of parliament.

An overwhelming 96% of members from both the AFA and FPA voted in favour of the merger. Once membership renewals are done and dusted, the FAAA is expected to have 12,000 members.

"You voted for one dominant reason," Sharpe said. "You want that single, loud voice [heard in] Canberra."

When speaking of shared values, we can't go past this edition's featured financial adviser, Addi House founder Kearsten James.

James set up her own practice two years ago so that she could provide advice in a way that was independent, non-conflicted and put clients' best interest first. This was precisely how she envisioned financial advice should be delivered when she entered the industry in 2006.

James shares the many benefits of being self-employed. Among them is the flexibility of being there for her young son; working from home; and not being restricted to a dealer group.

Another prerogative is the ability to choose which clients she services based on their alignment of values. When James looks at her own beliefs and ethics and what she stands for, she also wants to work with clients who mirror such values.

"I want to get really involved in their lives and their goals and aspirations and be there as a guide and mentor and motivator for them. When there is no alignment or common values, that's really hard to do," she says.

As more and more advisers unite and collaborate with peers and connect with clients on a deeper level beyond budgeting and asset allocation purposes, they are not only moving the profession forward as a united force, but they are also regaining the trust and confidence of clients who sees and values them as more than a financial adviser. **FS**

The quote

As one member said to me, 'Dave, it's not what we're called, it's what we do that counts'.

Christopher Page

managing director, *Financial Standard*

PI premiums up 40%

Jamie Williamson

The cost of professional indemnity insurance increased at least 40% for financial advisers since 2015, a new report from APRA shows.

Reviewing claims trends and affordability of public liability and professional indemnity insurance in Australia, the regulator found that between 2015 and 2021 professional indemnity gross written premiums grew by 75%. This is comprised of a 27% average increase in premiums and a 38% increase in risk counts.

While increases differed across occupation groups and subgroups, the Financial category – which accounts for accountants, financial advisers and brokers/ dealers – all saw an average premium increase of at least 40%.

"For Financial, average premiums increased by a similar amount across most occupation subgroups. The largest increase in premiums was for brokers and fund managers (also accompanied by a large increase in risk counts)," APRA said.

"While average premiums also increased significantly for financial planners/advisers – this was accompanied by a large reduction in risk counts (which may instead be indicative of changes in measurement of risk counts rather than price increases)."

The premium increases were the highest for large and corporate businesses, APRA added. FS

Former adviser jailed for nine years

Karren Vergara

Former financial adviser Gavin Fineff has been sentenced to nine years in prison after a court determined he defrauded 12 clients $3.36 million.

Fineff, who was working as a representative for Sentinel Wealth when the crimes took place, defrauded clients of between $60,000 and $745,000 between October 2016 to March 2020, the District Court of New South Wales heard on April 21, only to use the funds to feed his gambling addiction.

The quote

Due to the fraud, the victim was left with limited funds and could not afford to pay her rent.

The hearing detailed how Fineff played his unwitting clients, 11 of which were approached to invest in Sentinel via advanced loans. Fineff had a 5% shareholding in Sentinel at the end of 2022 valued at $280,000.

Other times, Fineff introduced clients to invest in life sciences company QBiotics and Gold Coast-based company Surf Lakes. In one example, Fineff dishonestly obtained $325,000 via a personal loan from Joyce Williams, who was 85 years old at the time. Fineff then told Williams that he would invest the funds in Sentinel shares but did not.

"Due to the fraud, the victim was left with limited funds and could not afford to pay her rent. She was issued an eviction order. The police and her local MP assisted her to stay in her house. Sadly, she passed away from breast cancer in October 2021," the proceeding heard.

Fineff used most of the funds to bet on horses.

In one instance, Fineff was a customer of Ladbrokes between 5 June 2018 until 7 March 2020 and had $2.2 million in his account. He made $1.45 million in withdrawals and over the period made a total loss of $758,510.

Justice O'Brien rejected the defence's argument that the offences "were moderated by his gambling addiction and diagnosed personality disorder, both of which are said to be characterised by impulsivity".

"I do not accept this submission, as the offending was not in my view causally related to these mental conditions," Justice O'Brien said. FS

FAAA officially launches

The Financial Advice Association Australia (FAAA) has officially launched, finalising the low-awaited merger between the Financial Planning Association of Australia (FPA) and the Association of Financial Advisers (AFA).

The FAAA unveiled a new leadership team comprising David Sharpe as chair and Michelle Veitch as deputy chair. AFA national president Sam Perera will not join the FAAA.

Perera will remain as AFA president and a board member until it is wound up. Sarah Abood leads the FAAA as chief executive, while AFA chief executive Phil Anderson is the general manager of transition and acts as interim general manager of policy and advocacy. Anderson took on the latter role after Ben Marshan left the post in March.

Joining the FAAA board as directors from the FPA are Diana D'Ambra, Kearsten James, William Johns, Jade Khao, Julie Matheson, Angela Martyn and Julian Place.

From the AFA, Katherine Hayes, Patricia Garcia and Shaun McDonagh sit on the new board.

FPA and AFA members can renew their memberships in May.

All branding, website and membership activity will fully transition under the FAAA branding by June 30.

"I urge all members to renew with the new association. The FAAA will speak with one strong voice for the vast majority of financial advisers in the Australian market, as we work towards ensuring better outcomes for advice practices and their clients," Veitch said.

Sharpe thanked Perera for his work as the AFA national president and commitment to bringing our two associations together.

"I also thank the other AFA directors who have worked so hard to make this merger a reality. I would also like to acknowledge and thank Marisa Broome who, as immediate past chair of the FPA, was deeply involved in the early stages of talks and integral to the ultimate success of our merger," he said. FS

Insignia names new executives

Andrew McKean

Insignia Financial has made several key appointments, naming a chief risk officer, chief member officer and head of superannuation.

Insignia has appointed Anvij Saxena as chief risk officer and Anne Coyne as chief member officer.

Saxena will take on leadership of the enterprise risk and compliance team and be responsible for overseeing all aspects of enterprise risk management and compliance.

Insignia said Saxena will focus on strengthening and uplifting risk management and compliance, further embedding it into the organisation's strategic leadership. He will report directly to Insignia chief executive Renato Mota.

Saxena joins with 20 years' experience in financial services, where he spent the last decade at the Commonwealth Bank of Australia. Prior to Insignia, he was executive general manager for operational risk for the bank's business support functions.

Meanwhile, Coyne is responsible for exercising fiduciary responsibilities on behalf of the trustees and advocating for quality member outcomes, ensuring alignment to Insignia's governance functions. She reports directly to the Insignia superannuation trustees chair.

Also, Insignia chief distribution officer Mark Oliver has taken on new responsibilities as head of superannuation.

In addition to his current role, he will act as a conduit to the trustees for services and governance engagement and provide a single point of contact for Insignia superannuation trustees, the firm said. FS

The quote

Anyone who recommends financial products or provides financial advice on social media must ensure they are complying with the law and may face ASIC enforcement action when they are not.

Federal Court blocks finfluencer

Chloe Walker

The Federal Court has said Tyson Scholz, otherwise known as ASX Wolf, cannot continue his online business, with permanent injunctions placed on the finfluencer.

Late last year, the Court found Scholz had contravened s911A of the Corporations Act by carrying on an unlicensed financial service business between March 2020 and November 2021.

During the time of misconduct, Scholz was found to have posted Instagram stories about particular companies which indicated he had purchased shares in them or that he thought it was a strong investment opportunity.

Documents also show he admitted to using Instagram as a "clever way of pumping" up share prices and said that because he couldn't charge them [subscribers] then he could "get away with it".

Scholz's business included a tiered subscription offering where, for $500, $1000 or $1500, subscribers could access various levels of share trading training, which were marketed as introductory to advanced. He also offered some members access to a private chat site via Discord.

The Court has now permanently prohibited Scholz from hosting online groups for which a membership fee is charged, and in which messages are exchanged by members about share trades, either in a group chat or through direct messages.

As of June, Scholz still has 125,000 followers on Instagram.

ASIC deputy chair Sarah Court said the regulator sought permanent injunctions because the people who paid Scholz to access private online forums where he made recommendations about shares, as well as those people who purchased shares based on these recommendations, did not have the benefit of these protections. FS

ASIC updates breach reporting guidelines

Karren Vergara

ASIC has updated breach reporting procedures in the hope that it can help reduce regulatory burdens for financial advisers.

The corporate watchdog detailed several changes to *Regulatory Guide 78 Breach reporting by AFS licensees and credit licensees*, following consultation from the likes of super funds, financial advisers, banks and insurance firms that expressed operational issues with the regime since its introduction on 1 October 2021. The updates include the clarification of circumstances in which licensees may group multiple reportable situations into one report.

RG78 also includes several new updates, one of which is how to describe the reportable situation.

"The level of detail you should include in your description of the reportable situation should take into account the impact, nature and complexity of the breach, including by providing a greater level of detail for reportable situations that involve client loss or other client or market integrity impact, and which are not one-off or isolated breaches," Regulatory Guide 78 reads.

Another new procedure is for licensees to provide genuine estimates for client loss and number of clients affected. This comes off the back of licensees writing "nil" values when asked for monetary impact.

"This estimate is important regulatory information," ASIC said. "We expect licensees to be able to provide a genuine estimate within the legislative reporting timeframe."

ASIC also introduced guidance on what constitutes a "similar" reportable situation, an "investigation trigger" and what is a "root cause".

ASIC acting executive director of financial services and wealth Suneeta Sidhu said: "The improved guidance will support industry to meet their obligations and support the regime to meet its policy objectives for ASIC, industry and consumers."

"We acknowledged early on that there were some implementation challenges with the regime. Our updated guidance has been developed following consultation with industry on practical solutions to some of these challenges." FS

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Jones scraps admin burdens, boosts intra-fund advice

Karren Vergara

The federal government will scrap a load of administrative burdens and give superannuation funds a larger role in making financial advice more affordable as it announces which out of the 22 Quality of Advice Review recommendations will become a reality for the wealth management sector.

Minister for financial services Stephen Jones on June 13 unveiled a number of reforms that aim to remove the red tape that is restricting Australians from accessing financial advice. Jones has accepted many of QAR chair Michelle Levy's recommendations either fully or in principle.

Eliminating many bugbears for financial advisers, the Safe Harbour Steps will be removed from the Best Interest Duty.

Ongoing fee renewal and consent requirements will be streamlined into a single form, and the requirement to provide a fee disclosure statement will be removed, as per Recommendation 8.

Statements of Advice (SoAs) will be replaced with an advice record that is more fit-for-purpose, with consultation to determine the final design of the replacement, accepted in principle as part of Recommendation 9.

Jones promises there will be more flexibility to how Financial Service Guides (FSGs) will be provided (Recommendation 10), while standardised consumer consent requirements will be introduced to classify a consumer as a wholesale or sophisticated client (accepted in principle as per Recommendation 11).

More details about the replacement SoA and the Financial Adviser Code of Ethics will be released in due course.

The quote

The new best interests duty would be a true fiduciary duty that reflects the general law and will not include a safe harbour.

For conflicted remuneration under Recommendation 13, some exemptions to the ban on conflicted remuneration will either be simplified or removed.

Jones said "clarifying that monetary or non-monetary benefits given by a client are not conflicted remuneration along with the removal of consequential exceptions", in accepting Recommendations 13.1 and 13.3.

Life, general and consumer credit insurance commissions (Recommendations 13.7 - 13.9) will have to provide standardised consumer consent requirements.

A boon for super funds

Superannuation funds will be given more leeway to provide retirement advice and information to their members, as accepted in principle as part of Recommendation 6.

Levy said trustees should be able to provide personal advice to their members about their interests in the fund, including when they are transitioning to retirement.

"In doing so, trustees will be required to take into account the member's personal circumstances, including their family situation and social security entitlements if that is relevant to the advice. Superannuation fund trustees should have the power to decide how to charge members for personal advice they provide to members and the restrictions on collective charging of fees should be removed," she said.

"The new best interests duty would be a true fiduciary duty that reflects the general law and will not include a safe harbour. This duty will apply only to financial advisers (relevant providers)."

Jones said trustees will be provided with legal clarity around current practices for the payment of adviser service fees (accepted in principle Recommendation 7).

Further to making advice more accessible, Jones will broaden the definition of personal advice (Recommendation 1) and remove the general advice warning (Recommendation 2).

Non-relevant providers will be able to provide personal advice (Recommendation 3) and the Good Advice Duty will be implemented.

Under Recommendation 4, the Good Advice Duty applies to all relevant providers (qualified advisers) who provide personal advice and Non-Relevant Providers such as advice firms or financial institutions.

Design and Distribution Obligations (Recommendations 12.1 and 12.2) will be reworked to "limit the exception to the requirement to take reasonable steps to ensure the distribution of a financial product is consistent with its target market to personal advice provided by relevant providers."

When personal advice is provided by Non-Relevant Providers, the AFSLs will be required to comply with the distribution obligations and take reasonable steps to ensure the financial product is only recommended in accordance with the target market determination.

Jones flagged that the government will legislate in the second half of 2023 and early 2024.

"Of the 22 recommendations, the government will adopt 14 recommendations in full or in principle today. We are also not ruling out any recommendations and will finalise our position on the remaining recommendations before the end of the year," he said.

"We will progress the implementation of these recommendations through three streams of work." FS

Ryan Murphy

*global head of behavioral insights
Morningstar*

Digging deeper into goal-centric financial planning

The investment doyen of value investing Benjamin Graham once wrote: "The best way to measure your investing success is not by whether you're beating the market but by whether you've put in place a financial plan and a behavioural discipline that are likely to get you where you want to go."

Indeed, helping clients reach their goals is the fundamental starting point to a good financial plan. It might seem like a sensible approach, but simply asking clients what their goals are is often ineffective. This is one of those deceivingly simple questions that is easy to get wrong.

Our research on investors showed that people often simply don't know their own financial goals. So, how should advisers talk to their clients about something they should know, but they don't know, and moreover that they don't realise that that they don't know? That's not so easy.

The quote

Our research on investors showed that people often simply don't know their own financial goals.

Digging into goals

Behavioural nudges can help clients shift from this nebulous grasp of goals to a more meaningful articulation and hence a better plan. One such approach uses a three-step process that involves simply asking clients what their overarching goals are.

These responses are set aside, and then people consider next a checklist of common financial goals. Here people can identify the things from the list that are most important to them. For example, they may select to buy a house, relocate in retirement, and go on a dream holiday.

The final step of the process involves answering the initial question, what are your goals, but now people do so with more experience having considered the checklist. When we looked at the results using this multi-step approach, we found that about one in four people's goals were fundamentally different in stage three compared with stage one. The simple use of a checklist helped nudge people to be less strangers to themselves and better articulates what drives them as investors.

This is due in part to people being vague and that's a recipe for disengagement. By personalising and digging deeper into their goals, advisers can help clients unearth and clarify their motivations.

A shift in thinking

We have also uncovered new results from firm in Canada that digs deeper into goal planning. The caveat is that the people in this sample were younger, more engaged, and financially literate - not exactly the national average, however, but a demographic attractive to advisers.

Here the process was similar, where we drew out and prioritised investors goals. But in this study, we asked people to consider the importance of their goals against the PERMA-V framework from the positive psychology literature. This identifies major sources of happiness and fulfillment: Positive emotion; Engagement; Relationships; Meaning; Accomplishment, and Vitality.

PERMA-V had as significant effect on how people explained their goals. By giving people greater clarity to what they wanted in life, we found people shifted their thinking, transitioning from financial goals to something more like life goals.

For example, retirement was initially important as a financial goal, but once you gave someone the time to distil what that means, their life aim was more about having the choice to live the way they wanted once they retired or spend more time with relationships or activities.

Both these approaches are examples of how we can help nudge people to make better choices. The approaches above do not rely on education, but rather structuring the choice environment to help imperfect decision makers make more rational and hopefully wiser choices.

Importantly, a better understanding of client goals can help people know more deeply why they are investing and help make them more resilient to enduring the persistent uncertainty that markets offer. Helping investors know both what they want, and why they want it, can help them get to where they want to go. That helps investors succeed and empowers advisers to better help them do so. FS

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Wealth gap divides Australia

Rich Australians who possess $1.9 million on average make up nearly two thirds of total household wealth, a new study finds.

A new paper from the Actuaries Institute, *Not a level playing field*, examined the wealthiest and poorest 20% of the population and found that the high-income group have 200 times more in assets compared to the low-income group.

This suggests that wealth inequality in Australia is substantially higher than ever as the rich have 230 times more in net assets and earn six times more in disposable income than those at the other end of spectrum.

The research found that the drivers of income inequality in Australia are complex, layered by age, gender, disability, location, education and employment.

Inequality is evident in where Aussies live as substantial income gaps exist between cities and regional areas.

Cities had high degrees of income inequality, with clusters of wealthy households in some areas and low-income households in others.

Homeownership is another factor driving inequality.

Currently, a 34-percentage point gap in home ownership rates exists between the richest and poorest households.

"Not owning a home has large implications – particularly as a driver of income poverty in older age and on stability of housing and associated social outcomes," the research found.

Furthermore, declining home ownership rates across the population will lead to larger differences later in life, including wealth accumulation and retirement outcomes. **FS**

The quote

A single fee consent form that is universally accepted would help sort this out and be a massive win.

Abolishing FDSs a major win: Panel

Karren Vergara

The Quality of Advice Review's recommendation to abolish Fee Disclosure Statements (which Labor will adopt) would be a major win for financial advisers as many continue to grapple with providing accurate documents to clients.

The Financial Advice Association Australia general manager of transformation Phil Anderson said that FDSs are "incredibly difficult" to issue and that having one small error can invalidate the entire process.

Anderson told the recent United Association Roadshow that following an ASIC review under Report 636 in 2019, the regulator urged advisers to go into product systems and check that they have the right amounts in their FDSs.

"Now, that is a response to the law. The law is very inflexible, but it's incredibly impractical and inefficient. So, there's a strong reason for why we should be wanting to get rid of FDSs," he said.

Overhauling the formidable ongoing fee consent arrangements and consent requirements would be a quick win for financial advisers, according to the panel that Anderson moderated.

According to Tangelo Advice Consulting director and principal consultant Conrad Travers, many advice licensees continue to grapple with providing accurate FDSs. Currently, half of licensees have external agreements in place, while the other half continue to provide FDS themselves.

Travers told the panel that most of the errors are not intentional. Some examples include aligning revenue with the correct time period; and advisers charging a different GST amount to the platform.

The second trend he observes is the way that product providers receive consent.

"I can see how it happened, but the fee consent process with product providers is a bit of a mess," he said.

"What happened is a lot of product providers have looked at the opt-in changes, gotten their own individual legal advice, and then kicked off their own projects to prepare." **FS**

Sales-oriented fear stunts expansion goals

New research reveals that the fear of being pushy or appearing to be "salesy" is deterring financial advisers from proactively expanding their client base and increasing their assets under advice.

About 43% of the 158 financial advisers based in the US expressed this sentiment in a survey conducted by Janus Henderson Investors and the Financial Planning Association.

This impediment affects advisers' comfort levels when it comes to sourcing new clients, which, if not developed over time, can be detrimental to business prospects, the *Six keys to growth for today's adviser* paper shows.

Twenty-one percent of advisers said asking for new business makes them feel uncomfortable.

Looking at how advisers nurture prospect leads, the survey found that the firms bringing in the highest number of new clients have some processes in place, either formal (49%) or informal (49%).

Firms growing at a significantly slower rate are much more likely to have no process (20%) or an informal process (57%) in place for actioning on prospect leads.

"New business development remains a perennial challenge for many financial advisers," Janus Henderson head of specialist consulting group Matt Sommer said.

The majority (84%) of advice firms with assets under advice exceeding $500 million strongly agreed that having a team contributes to the growth of their business.

Advisers that onboarded 10 or more clients in the previous year are likely to have identified their ideal clients' specific needs, challenges and preferences.

This tailored approach to client engagement allows advisers to provide a personalised experience, which can lead to increased client satisfaction and loyalty, Sommer said. **FS**

Spark invest launches

The platform offers five diversified portfolios and is managed by Spark's chief investment officer Andrew Coloretti and the wider investment team.

Spark Invest has a minimum investment of $5000 per portfolio, with a suite of solutions that ranges from income, balanced, growth, high growth and ESG.

The group explained all profits from Spark Invests management fees will be directed to charitable benefactors. Chief executive and founder Arthur Kallos said the company and its advisory community are driven by a mission to improve the financial wellbeing of everyday Australians.

Moreover, the solution is flexible for use by investors who may not be ready for an advised experience, but instead, seek access to a quality, self-driven investment solution, he added.

The solution is a logical step in empowering consumers to engage with investing and building wealth in an accessible fashion and to reach more people seeking cost-effective solutions, Kallos said.

"After gaining confidence and trust with Spark, we can connect investors to an adviser within our group for further assistance with their broader needs. Our advisors will be able to advise maintaining or investing in Spark Invest as an advised product."

Spark Invest has been developed in conjunction with OpenInvest.

"Passionate, mission-driven licensees like Spark Financial Group are listening to their advisers and taking steps now to give them the means to help a much broader audience of people who aren't yet ready for the higher costs of traditional personal advice," OpenInvest chief executive and co-founder Andrew Varlamos said. FS

The quote

Once we have formalised, we would expect other players to express interest in joining and they're welcome to do that.

ASIC extends adviser registration

Karren Vergara

Advisers now have until October 1 to register on ASIC's Financial Advisers Register, as the regulator extends the deadline.

ASIC has pushed pack the slated July 1 registration deadline for several reasons.

This will allow time for parliament to consider the improvements proposed by the *Treasury Laws Amendment (2023 Measures No. 1) Bill 2023*, which is currently before the senate.

ASIC said it also wants to provide further guidance to advisers to comply with the registration process, as well as help Australian Financial Service Licensees register their relevant providers.

"The registration requirement is new. It is separate, and in addition to, the pre-existing requirements for an AFS licensee to appoint a relevant provider to the Financial Advisers Register after they have been authorised. Provisional Relevant Providers cannot be registered," ASIC said.

It will be an offence for a relevant provider to provide financial advice if unregistered.

Offences also apply to licensees if a relevant provider whom they have authorised provides financial advice while unregistered.

The legislation defines a relevant provider as "an individual who is authorised to provide personal advice to retail clients about relevant financial products."

It is also a licensee; an authorised representative of a licensee; or an employee or director of a licensee, or an employee or a director of a licensee's related body corporate.

Advisers were originally required to register by 1 January 2023.

However, last November ASIC delayed registration until 1 July 2023 to allow certain improvements to be made to the Stage 1 registration requirement. FS

Insignia rebrands advice unit, reports exits

Jamie Williamson

Insignia Financial will undertake a rebrand of sorts within its financial advice business in a bid to improve understanding of its various advice channels.

It comes as it reports nearly $500 million in outflows for the Advised channel and further adviser losses, March quarterly reports show.

Insignia said it will change the naming conventions used to describe the advice channels to Professional Services, being employed advisers, and Advice Services, being self-employed and self-licensed advisers.

It explained the Professional Services channel accounts for Shadforth Financial Group and Bridges, employing a B2C model and providing advice on a fee-for-service basis. Meanwhile, Advice Services is a B2B offering whereby self-employed advisers operated under an Insignia licence or are self-licensed.

Losses within the Advice business have been largely seen within the Advice Services channel, Insignia said. As at March end, Insignia had 1241 advisers across Advice Services, down from 1278 at December end. Overall, the business saw 42 advisers leave in Q3.

Insignia said it is continuing to refine its advice business proposition, adding that it "remains committed to achieving break-even in the Advice Services channel and to delivering overall profitability."

Further, Insignia said its Advised channel experienced challenging conditions in Q3. It saw net outflows of $486 million and contributed to net platform outflows of $453 million, offset by strong inflows into the Workplace channel.

Elsewhere, overall funds under management and administration increase by $6.2 billion to $291.3 billion. Asset management saw net inflows of $1.1 billion, comprising $902 million into direct capabilities and $211 million into multi-asset. Net inflows totalled $660 million.

"We continue to invest in and enhance our proprietary Evolve platform ahead of the next phase of simplification, while enhancements to the ANZ Smart Choice Super product suite demonstrate out focus on process efficiencies and environmental responsibility," Insignia chief executive Renato Mota said. FS

FINFLUENCERS PLUG FINANCIAL ADVICE GAP

Could finfluencers be the silver bullet to Australia's poor financial literacy and growing unmet advice needs? **Karren Vergara** writes.

One year since ASIC forced finfluencers to obtain a general advice licence or face jail time and a hefty fine, finfluencers playing by the rules of the law are reaching financially illiterate and disengaged Australians in a way that traditional advice has failed to tap into.

Finfluencers backed by established advice firms could be the antidote to the crippling financial advice gap crisis, which according to Investment Trends affects 12.4 million Australians who have unmet advice needs thanks to the steep cost of hiring a financial adviser, calculated to be $2070 on average just for limited advice.

The advice gap is widest among adults aged between 18-34 years old. It is precisely this cohort that finfluencers such as Victoria Devine[01], host of She's on the Money podcast with a following of 172,000 on Instagram, have been able to tap into.

Guideway chief executive officer Alex Aracas says the company's engagement with Natasha Etschmann, who has 43,600 followers, dovetailed with its ambition of making quality advice more accessible and affordable.

With shrinking adviser population, Aracas says they are hard pressed to meet the existing demand levels for providing personal advice, let alone education.

"As the demand for advice and education increases, we believe it will be unlikely that practices will have this time or imperative to invest to build a compliant self-sustaining education or general advice service," he says.

"At the same time, we can see from the engagement levels with finfluencers that this emerging channel is highly valued by consumers. It's clear consumers want information and education, and the service providers that would historically provide these services have not done so yet, creating this opportunity."

After launching Life Sherpa nearly 10 years ago, founder and chief executive Vince Scully recently linked with Devine, Queenie Tan with 117,000 followers, and creator and host of My Millennial Money Glen James. Phil Muscatello, the host of Shares for Beginners, also sits under Life Sherpa umbrella.

The quote

Content is core to our business and as such, we are in the business of educating.
Vince Scully

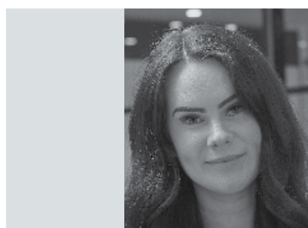
"Expanding to collaborate with others was a logical extension," Scully says. "The question is, how do I satisfy my monitoring and supervision obligations as an AFSL holder and still meet the spontaneity and authenticity that you need in social media?"

As a result, content has become paramount to the firm's operations.

"Content is core to our business and as such, we are in the business of educating," Scully says.

"We can either amplify our content or [the finfluencer's] content. We collaborate in a sense that one plus one becomes three. [Recently,] in our studio, we had Queenie, Victoria, and I record a combined episode for She's on the Money. Collaboration around events and content brings a greater variety; the more voices you have the better."

Since its crackdown, ASIC said in a statement to Financial Standard that it has identified "14 finfluencers that have gained the



01:
Victoria Devine
founder
Shes on the Money

02:
Adele Martin
founder
My Money Buddy and
The Savings Squad
Podcast

relevant authorisations to provide financial or credit services by obtaining either their own AFS licence or obtaining status as an authorised rep or corporate authorised representative of an AFS licensee or Australian Credit Licensee."

While this might seem like a small pool, their breadth and depth of influence nevertheless deeply resonates.

James launched his podcast in 2018 well before the term "finfluencer" was thrown around.

"Someone who's listening to Victoria Devine might not listen to me, because I'm not their style. So, I don't actually have competitors. Every podcast host has a different style, a different way of doing a show. When I had my own financial planning business, I knew that there was enough work for everyone," he says.

Adele Martin[02], money mentor and founder of My Money Buddy and The Savings Squad Podcast, urges financial advisers to consider social media as part of their marketing strategy.

For time-poor advisers, partnering with an established finfluencers might be the way to go.

She points to Molly Benjamin, founder of the Ladies Finance Club, who joined forces with a financial adviser, as a good example of how advisers can work with finfluencers in a referral capacity in the same way as an accountant or mortgage broker.

Benjamin is not only active on social media, but she also regularly hosts roadshows for her congregants. Those that get referred to her adviser partner discover the value of advisers.

"A finfluencer is a great centre of influence because they have put in effort and spent hours building up trust with their audience. When they refer an adviser, that adviser then gains that trust," Martin says.

To a large extent, Martin says finfluencers deserve some gratitude and acknowledgement because they started the conversation about money when it was considered taboo.

"Thirty-plus years ago, fitness was something done in the back shed and it wasn't a cool thing. But now, it has become mainstream and we're seeing that with money. And social media is a big reason for that."

The quote

Most people just need general advice to get pushed in the right direction with their finances and to get educated.
Glen James

For the masses who do not have the money to spend on a financial adviser, James says general advice is what exactly they need to get their ducks in order.

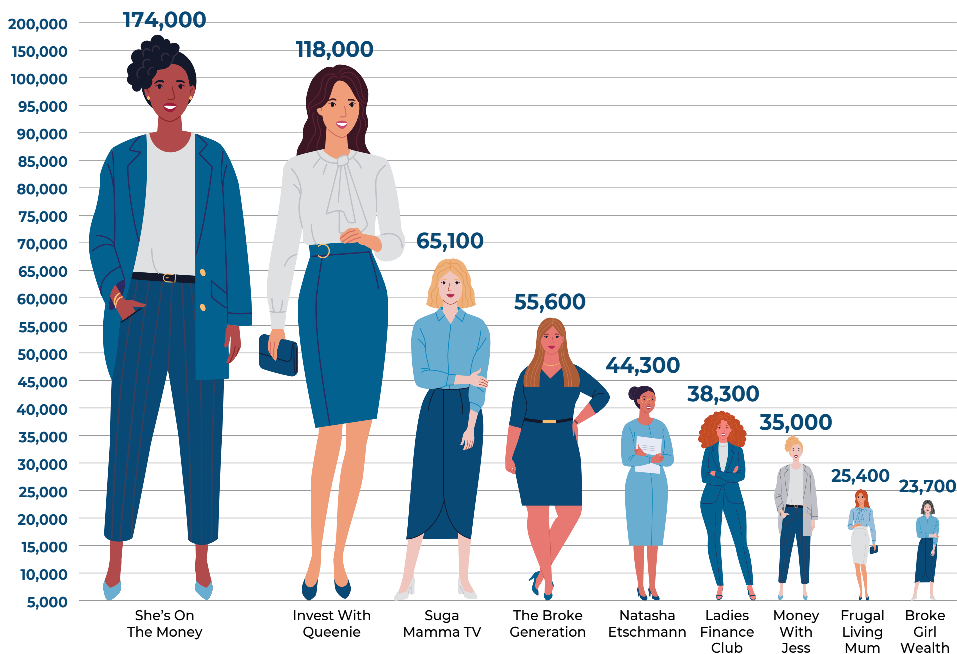
"Most people just need general advice to get pushed in the right direction with their finances and to get educated," he says.

Unlike the 1980s, Scully says no one was "turning up to personal finance meetups on a Friday night, three weeks before Christmas - but we are seeing that today."

The impact finfluencers is obviously good not only for that audience, but for the profession as a whole, he says, because they are being exposed to the benefits of making the right financial decision.

"Ultimately that will lead to requiring advice. So, the challenge for the industry or the profession then is how do we deliver that?" Scully says. **FS**

Finfluencers with some of the largest number of followers on Instagram



DASH adds to leadership

Cassandra Baldini

Financial planning tech firm DASH has added a chief operating officer and an experienced superannuation specialist, recruiting ANZ's head of wealth customer resolution and the executive general manager of Equity Trustees' super trustee office.

Chief operating officer Michelle Russo is responsible for the investment operations and client services teams as well as bringing key projects to market.

Russo was previously at ANZ and most recently held the role head of wealth customer resolution.

Before that, she spent over three years at State Super Financial Services (StatePlus) as its head of client administration and registry services.

Former Equity Trustees executive general manager, super trustee office Mark Blair has also joined the firm as its superannuation specialist.

Blair will work on compliance within DASH's super products as well as key growth opportunities which will come to market in the coming months, the firm said.

Chief executive Andrew Whelan commented that getting the right people in the business is crucial.

"We are on track to deliver some innovative and exciting solutions for advisers that we believe will be a positive addition to any advice practice," he said.

Whelan added the hires are in line with the business growth strategy and its mission to provide better advice tools and investment execution to the market.

"Having a smooth tech stack where all elements integrate seamlessly, and from A to Z, is what will be the game-changer for better staff satisfaction, less administration burdens, and happier clients," he concluded. FS

Why clients fire their financial adviser

Karren Vergara

New Morningstar research reveals the underlying reasons why clients dump their financial advisers that are not related to costs or investment performance.

The survey of US-based clients found three core reasons why they let go of their advisers.

Th first is that the adviser failed to get to know the client as a person and did not take the time to find out their personal and financial goals.

Some reasons related to a specific issue with an adviser's service began with not recognising the client's need for a particular service, the research found.

Many of these issues could be remedied if the adviser devoted more time, attention, and resources to understanding the client, and perhaps leveraging help from established discussion guides, checklists, and exercises.

The second reason was the adviser's inability to communicate their value.

The quote

Many individuals who cited communication as their firing reason indicated that since they haven't heard from their adviser, the adviser must not be doing anything.

"Many individuals who cited communication as their firing reason indicated that since they haven't heard from their adviser, the adviser must not be doing anything. Although an adviser may be diligently monitoring their clients' accounts, if that work is not communicated, it may go unrecognised by clients," the research note shows.

Finally, clients cited mismatched expectations early in the relationship. Many clients said there were mismatched values and were not able to trust the adviser or they did not have a good rapport, which led to their firing.

The good news is that out of the 3003 survey participants, only 185 or 6% of the population had fired their advisers, meaning that breaking up with an adviser is a relatively rare occurrence.

Digging further into the survey, 32% of clients said they were unsatisfied with the quality of the financial advice and service, while 21% was unhappy with the quality of the relationship. FS

February exam records 67% pass rate

More than two thirds of the financial advisers that sat the mandatory exam passed the sitting.

Releasing the latest results, ASIC announced that of the 192 candidates who sat the February exam, 128 passed. Sixty percent of them sat it for the first time.

In aggregate, the Australian Council for Educational Research (ACER), which administers the exam, counted 20,425 individuals sat the exam. Some 93% or 18,890 candidates that sat the exam have passed.

About 15,850 of the total pool are current financial advisers on ASIC's Financial Adviser Register (FAR), representing 99% of the register.

There were over 890 candidates completing their professional year of work and training.

The November cycle recorded a 57% pass rate based on 282 candidates.

Those who have passed demonstrate they have the skills to apply their knowledge of advice construction, ethics and legal requirements to the practical scenarios tested in the exam, ASIC said.

For those who failed, they will receive general feedback from ACER to highlight the curriculum areas where they have underperformed.

Bluepoint Consulting chief executive and co-founder Todd Karamian was permanently banned by ASIC recently for faking his exam results.

In December 2021, Karamian changed the result on his Financial Adviser Certificate from a 'fail' to a 'pass' and provided the altered document to ASIC. In the nine months that followed, Karamian provided personal advice to 11 retail clients when he was not authorised to do so.

Karamian was deemed incompetent and not a fit and proper person to provide financial services. He is banned from providing any financial service, controlling any financial services company, and performing any function involved with running a business. FS

BT, Striver partner

BT and Striver have launched a program which aims to tackle the financial advice industry's talent shortage, using a tech-based human resources platform and guiding new entrants towards the profession.

The program includes more than 20 events across Australia, attended by graduates and representatives from advice practices.

BT said two virtual speed networking events have been held in Sydney and Brisbane to date, which has resulted in 85 first-round job interviews for new entrants.

In addition to these events, the collaboration includes a range of activities that focus on attracting, developing and retaining talent in the advice industry, BT said.

BT chief executive Matt Rady highlighted a main issue for advisers is attracting and developing new talent.

"We see our collaboration with Striver, who specialise in the advice industry, as a natural extension of our ongoing support for advisers, to help them thrive," he said.

"We need more people to pursue the noble profession of financial advice, so that more Australians can access the advice they need to achieve their goals and build a better financial future."

Striver chief executive and founder Alisdair Barr said the firm is proud to "open up" the potential for a rewarding career in financial advice to more than 20,000 candidates.

"We look forward to working with BT in the year ahead, with an exciting line-up of targeted activities that bring together quality candidates and advice practices that are seeking to grow and strengthen their business," he commented.

Since launching in 2013, Striver facilitated nearly 1000 placements. **FS**

Adviser complaints rise: AFCA

Karren Vergara

#

The numbers

25%

The increase in adviser-related complaints.

The number of superannuation complaints have slashed while those related to financial advisers have shot up, the latest statistics from the Australian Financial Complaints Authority (AFCA) shows.

In the six months to December 2022, AFCA received 2538 superannuation complaints, while financial adviser-related complaints totalled 2454.

The number of superannuation complaints dropped by 38% in the second half of 2022 as the first half recorded a staggering 4115 complaints.

Financial adviser complaints on the other hand increased by 25% from 1959. AFCA did not isolate the complaints related to Dixon Advisory and Superannuation Services, which as of April 17 stood at 1800 in aggregate.

Altogether, AFCA received 43,516 complaints.

Only 20,926 were resolved at period-end and about $106 million was paid out in compensation.

Bank-related complaints comprise the lion's share (16,654), followed by general insurer (10,639) and credit provider complaints (4027).

In terms of products, home building insurance received the highest number of complaints (18.2%). This is followed by complaints about deposit taking or payment systems (17.8%), housing finance (8.8%), consumer loans (8.7%), credit cards (7.6%), superannuation account administration (4.7%) and derivatives or hedging securities (3.3%).

As at April 1, there were 53 financial firms deemed insolvent garnering 4886 complaints. AFCA estimates that the combined compensation amounts to $692 million.

An overwhelming number of complaints relate to 19 insolvent financial advice firms registering 1972 complaints allegedly owing $375.4 million.

Two defunct foreign exchange dealers received 1162 complaints from customers who are owed $253.6 million in compensation. **FS**

HUB24 acquires myprosperity

Cassandra Baldini

The platform provider has acquired 100% of myprosperity for $40 million, finalising the deal on May 30.

Melbourne-based myprosperity specialises in client portals for financial advisers and accountants and will be operated as a separate business within the HUB24 group. The leadership team and branding will remain as is.

Shareholders of myprosperity will receive total consideration of $40 million of HUB24 shares and up to a further $11.5 million in shares, subject to certain conditions and performance hurdles being met progressively over the next three years.

Expected transaction costs for this financial year are $400,000, HUB24 said.

HUB24 further explained that the software specialist will retain its "entrepreneurial culture" whilst benefitting from HUB24's technology infrastructure and shared services. It added myprosperity will be incorporated into the platform segment within HUB24's financial reporting disclosures.

myprosperity is already integrated with HUB24 and Class.

With a book of over 440 accounting and financial advisory firms, HUB24 said, it expects the transaction to be underlying EDBITA positive in FY25, EPS neutral in FY26 and EPS accretive in FY27, up to 5%.

"The acquisition is expected to deliver long term shareholder value by accelerating HUB24's platform of the future strategy, supporting our current growth trajectory and strengthening our competitive advantage to capture market share and create new growth opportunities," it said.

HUB24 managing director Andrew Alcock said he is excited by the deal and welcomed myprosperity founder and executive director Peter McCarthy and his team to the firm.

"This acquisition will consolidate our market-leadership position and accelerate the delivery of our platform of the future strategy, strengthening our competitive advantage to capture further market share and new growth opportunities," he said. **FS**

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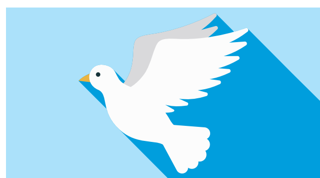

Vale Michael Harrison

Jamie Williamson

Michael Harrison is being remembered as a teacher, mentor, and unrelenting advocate for risk advisers after he passed away on May 21, aged 78.

Harrison established Australia's first private bank, consulted to the likes of AMP, Citibank and the Australian Competition and Consumer Commission, sat on the board of the Australian Formula One Grand Prix, and even served three terms as the Deputy Lord Mayor of Adelaide. He was also a valued public speaker, both in Australia and abroad, and author.

In 1997, Harrison was tasked with reinventing Zurich's Australian life insurance business. Most recently, Harrison served as chair of Synchron, a role he took up in 2011 and held until the group's acquisition by WT Financial Group in 2022.

He was part of Synchron since 2007, when he began consulting on strategy and marketing for the licensee.

In a tribute, Synchron founder Don Trapnell said: "With his help, we transformed Synchron into one of the largest non-institutionally owned licensees in the country and a preferred dealer group for both younger advisers and our traditional network of older advisers."

Trapnell cited Harrison's work in developing the NextGen bootcamp for young advisers and Synchron's legal battle against the State Revenue Office of Victoria in relation to payroll tax being applied to the earnings of small advice practices which ran from 2014 to June 2016.

Harrison is survived by his wife Pam and their five children. FS

Finfluencer receives jail sentence

Cassandra Baldini

The quote

Govinda used a social media forum as an integral part of his market manipulation.

A finfluencer who used social media to manipulate the share price of 20 different listed stocks was handed jail time and a $40,000 fine.

Gabriel Govinda, known online as Fibonarchery, received two and a half years imprisonment for market manipulation but was immediately released on a five-year good behaviour bond.

The HotCopper trader also copped a $42,840 fine after pleading guilty in Melbourne County Court to 23 charges of manipulation of ASX-listed shares and 19 charges of illegal dissemination of information relating to the offence.

Govinda's "pump and dump" felony has triggered the very first sentencing of a social media personality in Australia under s1041D of the Corporations Act.

Govinda used 13 different share-trading accounts,

held in the names of friends and relatives, to manipulate the share price of 20 different listed stocks between September 2014 and July 2015, ASIC said.

The regulator further alleged Govinda traded between the various accounts and used "dummy bids" to falsely increase perceived demand, and ultimate price, for listed stocks. The court heard Govinda also illegally disseminated information about his "wash trades" and "dummy bids" on popular stock chat forum HotCopper, which it found was in breach of the Corporations Act.

"Govinda used a social media forum as an integral part of his market manipulation. He promoted certain shares that he had an undisclosed interest in, and which he had manipulated, with a view to selling out at a higher price," said ASIC deputy chair Sarah Court said.

During ASIC's search of the finfluencer's premises in 2015, a notepad was found which detailed his use of HotCopper to promote market manipulation.

ASIC determined that Govinda had a significant influence by manipulating small caps by buying big parcels at a reasonable price, and alerted other daytraders to sell them at higher price at the end of day. FS

HESTA adds Dahn to board

Karren Vergara

HESTA has appointed Pitcher Partners' Sue Dahn, an FS Power50 financial adviser, to its board and investment committee.

On July 1, Dahn joined the super fund with $70 billion in assets under management.

Dahn founded the investment advisory practice at Pitcher Partners, which has grown to a team of 65, managing and advising on about $6.5 billion in funds under advice.

HESTA chair Nicola Roxon said: "Sue brings a wealth of experience to the board as an investment advisor, and her previous board experience will continue to enhance our ability to make a real difference in the lives of our members."

"Investment committees and good governance have long been two key passions of mine," Dahn said.

"I am looking forward to joining the HESTA Board later this year and sharing my experience and expertise in investment across all asset classes, both listed and non-listed and in contributing to HESTA's great reputation for responsible investing."

Dahn is currently chair of the investment committee for Breakthrough Victoria and Australian Communities Foundation. She was also chair of investment committee at MTAA Super Fund, AGEST Super and ESS Super. Recently, she stepped down from the board of Spirit Super.

Before Pitcher Partners, Dahn worked as an accountant gaining experience with KPMG in audit and Arthur Anderson in tax. She later held senior financial positions in the Victorian Government Departments of Premier and Cabinet and Treasury and Finance.

She was named trustee of the year by the Australian Institute of Superannuation Trustees in 2021. FS

SMSFs choose to fly solo

Karren Vergara

Self-managed super fund trustees continue to shun the services of financial advisers despite the fact many concede they need expertise on regulation changes and investments.

This is according to the latest Vanguard and Investment Trends 2023 SMSF Report, which found that 160,000 trustees currently use the service of a financial adviser, up from 155,000 year on year.

Looking at those who do not use an adviser at all, that figure has increased by 15% to 270,000 year on year.

Consistent with prior surveys, the reasons why SMSFs reject advisers comes down to self-confidence – believing they can manage the investments on their own. Many deem themselves as competent and therefore financially literate.

While others said they still don't fully trust advisers, the main factor tends to be the high costs of advice services that they don't think pays off.

Interestingly, the research found that half of SMSF money is currently in pension phase.

"So, retirement income considerations are going to be really, really important and perhaps a good way for advisers to establish that conversation with SMSF trustees," said Investment Trends head of research Irene Guiamatsia.

Advisers are well placed in playing the role of a financial coach and strengthening investors' financial literacy, she said, adding that they provide the most valuable when it comes to educating them about updates to rules and regulation.

This year, about 20% are likely to seek the help of an adviser. **FS**

Retirees brace for more inflation shock

Cassandra Baldini

Inflation is a looming threat to retirement incomes, so it's no surprise financial advisers are rotating toward more dynamic strategies.

According to a report penned by Challenger and Ensombl, inflation is fast becoming the number one threat to retirement outcomes.

The report highlighted a study conducted in the US which saw advisers pick inflation risk as the biggest threat to retirees over market volatility and longevity risk – which will likely replicate in Australia.

Further, the report found retirees who experienced higher inflation earlier in retirement finished with a 7% lower balance than the retiree who encountered it mid-way through retirement, and almost 17% less than the retiree who didn't encounter inflation until the end of retirement.

ABS data saw inflation sit stubbornly at 6.8% in May, up from 6.3% in April.

"Retirees should only be making short-term sacrifices to shore up their longer-term lifestyles, not to maximise the wealth they can pass on," Stephan Independent Advisory director and financial adviser James Stephan reinforced.

One lever that can be pulled to shore up retirement finances is to either delay imminent retirement or re-enter the workforce if already retired.

"The trend towards more flexible working in the wake of Covid, along with a worsening skills shortage, may make such a strategy more viable than it has previously been," the report said.

When it comes to portfolio construction strategies, Stephan said the firm looks at a client's capital needs over time and matches them to asset classes, accordingly, using an evidence-based approach.

"We then look at how that compares with a portfolio-based approach purely on their stated risk tolerance," he said.

"Where there is a divergence between the two, we will revisit with the client, but always with a view to taking risks off the table. Protecting the capital critical to their lifestyle needs is one risk, but so is the risk of outliving savings because of overcaution." **FS**

The quote

Retirees should only be making short-term sacrifices to shore up their longer-term lifestyles, not to maximise the wealth they can pass on.

ASIC bans former Madison adviser

Brisbane-based financial adviser Stephen Vick received the ban for recommending his clients roll over their existing superannuation to a newly established self-managed superannuation fund and borrow to invest in residential property.

The regulator's surveillance of the former adviser looked at client files from his time as an authorised representative of Madison Financial Group.

Following the ASIC investigation, Vick will not be able to provide financial services, perform any function involved in the carrying on of a financial services business, and control an entity that carries on a financial services business, for five years.

The ban was put in place last September, however Vick applied to the Administrative Appeals Tribunal to seek a review of ASIC's decision, as well as stay and confidentiality orders.

The AAT refused his applications for stay and confidentiality orders in May this year. No hearing date has been set for the substantive review of ASIC's decision.

Vick's business comprised a group of companies that provided services in property sales, mortgage broking, accounting and financial advice, ASIC said.

It found that the former adviser did not act in the best interests of clients, failed to provide appropriate advice, and gave defective statements of advice to clients that contained numerous misleading statements and omissions.

The regulator further alleged Vick had a business structure that created conflicts of interest, prioritised his interests over the clients' interests, and accepted conflicted remuneration.

Vick's banning is recorded on ASIC's publicly available Financial Advisers Register and the Banned and Disqualified register. **FS**

FORWARD **THINKER**

Kearsten James, Addi House

When Kearsten James established Addi House two years ago, the principal and financial adviser seized the opportunity to reimagine finance advice her way – providing independent, disciplined and unconflicted advice to clients with shared values.
Karren Vergara writes.

Photography: Victoria Toldina

When Kearsten James was undertaking a financial planning and investments course at Griffith University around 2005, she entered an essay writing competition that asked: "What would you do to change the financial advice industry?"

James wrote how the profession should eliminate vertical integration and remove commissions and inherent conflicts.

"I believed at a very early age that as a profession financial planners should operate on a fee-for-service basis and always base their advice on what is in the best interests of the client," she says.

"Funnily enough, I didn't win the competition and perhaps the judges, who I believe were financial planners, didn't share my views."

In her essay, James was essentially describing Tupicoffs, the Brisbane-based independent advice firm that she joined while studying at university.

Upon entering the industry, independent advisers were few and far between. Fee-for-service advice was rare and vertical integration, whereby many advisers peddled bank-manufactured products, was the norm.

"I loved financial planning for what it could be and what you could do for clients, but I didn't like the inherent conflicts that existed back when I first started," James says, looking back on that era.

"A lot has changed since then of course and I truly believe financial planning now has all the qualities of a respected profession."

While at university, James heard about Tupicoffs from a fellow student who worked at the firm.

She discovered it was independent, fee for service only and put clients' best interest first.

At the time, managing director Neil Kendall just won the Money Management Adviser of the Year Award.

"When I was entering the industry, I had a very clear view of what I believed financial planning should be about and that is where we are today," James says.

"But it was very different back then and that's why I joined Tupicoffs. I believe the business was one of the leaders in making that change and evolving how advice should be given."

James spent about six years as Kendall's associate adviser, gaining in-depth experience and insight.

"It was a great training ground. I met clients from different walks of life – they were business owners, self-employed, professionals, high-net-worth individuals – some had more complexities than others. I learned so much from that experience," she says.

But to get to and from work, James would commute a long journey and spent 12 hours a day away from home.

When she gave birth to her son, James realised it was no longer practicable.

"So, I decided to change and move back to a technical paraplanning role where I could still apply my skills and knowledge but in a technical capacity. That was much more flexible for me and in raising my young son at the time," she says.

Nearly three out of four workers in the paraplanning industry are women, according to paraplanning platform Tanngo, most of whom are aged between 30 and 40 years old and have children.

"Paraplanning is fantastic, particularly for women who want that flexibility throughout their career. I went from a client-facing role to a back-office, technical role, and then back to client-facing," James says.

Once her son was old enough to start school, she decided it was time to get back in front of clients.

"Whilst I love the technical side of things and being able to document a strategy, you're not able to influence change in the client's behaviour," she says.

James thoroughly enjoys the aspect of financial planning that endeavours to understand the client's motivations and values, and how she can help and educate them make good decisions.

"Some people believe that skillsets or personality types for paraplanners and advisers are so different that you can't excel at both," James says.

I think that's rubbish because you can be technical in nature and still have the personality and communication skills to succeed in a client relationship role as well."

Reimagining advice

Operating as an independent financial adviser is quintessential to who James is, so much so that in July of 2021, she went out on her own and launched Addi House, located in Bundall, south of Brisbane.

After working for several organisations, James began to envisage how she wanted to provide advice, what services should be rendered, and exactly who she wanted to help.

To be able to reassure her clients that she is unconflicted is fundamental to Addi House, which has a mantra of "The Home of Independent Financial Advice".

"I got very clear on what I wanted to do and how I wanted to do it. I wanted the autonomy to build a business my way. I liked the idea of being self-employed and being the master of my own fate," she says.

On top of that, the flexibility of being present for her son is paramount for a working mother.

Pointing to signs of growth, Addi House recently hired an associate financial planner, who works alongside James in providing advice.

But in addition to advice duties, James is also the paraplanner, client service officer, practice manager, bookkeeper, marketer, compliance manager, website designer and so forth.

"It's everything and all encompassing," James says.

"But I have support from my family and my husband gets involved in anything that can help relieve pressure. Even though the hours might be longer, the reward of being my own boss certainly outweighs the challenges. Being able to do it my way, and give what I believe, is the best service I can, no questions asked."

Rainmaker modelling of ASIC's Financial Adviser Register shows that many advisers are shunning large dealer groups.

At the end of March 2023, there were 16,155 qualified financial advisers practising in Australia.

The number of licensees jumped by 213 compared to the prior quarter.

The majority of that, Rainmaker found, came from small non-aligned AFS Licences.

Oracle Advisory, InterPrac Financial Planning, Advice Evolution, Zurich Assure, Smart Financial and SIRA Group were some of the non-aligned boutiques that rapidly grew in the March quarter.

"Non-aligned boutiques accounted for almost all the quarter's adviser increase," Rainmaker said.

Overall, almost two-thirds or 64% of financial advisers identify as being non-aligned. This leaves just 36% who are associated with aligned AFSLs.

The quote

I want to get really involved in their lives and their goals and aspirations and be there as a guide and mentor and motivator for them. When there is no alignment or common values, that's really hard to do.

"I went into business for myself so that I could have more control and give advice and service the way that I think is best," James says.

"Being a part of a dealer group, which then controls how you deliver advice, just didn't make sense to me. I didn't want anyone else to have control or influence over my advice or service offering. Being 'independent' in the strictest sense of the word is also important to me, and this is why I chose to become self-licensed."

James' clients are mostly young accumulators aged between 35 to 55.

Some of her other clients with complex needs benefit immensely from her technical background.

"Being able to help clients with lots of entities and structures is also another love of mine, where I can be involved with other professionals such as lawyers and accountants to make sure that clients get the best outcome as well," she says.

Being able to select clients she wants to service is another prerogative of being in charge.

For James, it comes down to aligning values.

"When I think about the type of person I am, my beliefs and ethics, and what I want out of life, I want to work with clients that share those values," she explains.

Since November 2020, James has served as a director on the board of the Financial Planning Association of Australia (FPA), which recently merged with the Association of Financial Advisers (AFA) to become the Financial Advice Association Australia (FAAA).

"I've seen a lot of pain from my peers finding it difficult to do business, many who expressed their frustrations on social media," James says.

"I decided to take a leadership role that would allow me to have some say in how we shape the profession. I have very clear views of what I think financial planning should be, and in a leadership role I can actually influence change for the better. I want to get really involved in their lives and their goals and aspirations and be there as a guide and mentor and motivator for them. When there is no alignment or common values, that's really hard to do."

What do you value?

James always had a love for numbers, business, and teaching.

Before James became an adviser, she even considered teaching business and accounting as a high school teacher.

But all three interests led her on a path to financial planning – where she has the best of three worlds.

"I see my role is not to just advise clients and tell them what they should do. I believe my job is to educate clients and take them on a journey and help them make informed decisions for themselves," James says.

Some clients would come to James with spreadsheets and say, 'I'm really good with my cash flow and I can see where every dollar is spent'.

"Knowing where money went is very different to having a system in place to manage where money will go in the future," she says.

More importantly, James points out that some clients may think they are good with money because they track their spending – but it does not necessarily mean that they are good at making decisions around how they spend their money.

This is where advisers prove critical, not only from an asset alloca-

The quote

At the end of the day, my view is that financial planning is much more about life and discipline and structure than it is about products, investments and returns.

tion point of view, but in terms of financial education, guidance and mentorship.

James typically helps clients formulate a structured plan to manage money coming in and sets up a cash-flow management system that lays out how much they can spend and any surpluses.

"While clients may be good with money, at times it isn't until they have a solid structure in place that really know whether they're on track or not. A structured cash-flow plan can provide accountability and instant recognition of how they are tracking to the plan," she says.

Such cash-flow strategies help them make decisions and better judge whether something is of value or not.

They then typically ask themselves: Would I rather spend my money on this handbag? Or would I rather that money go to my goal of going to Fiji with my family?

But before any of this takes place, James' starting point with all her clients is an in-depth conversation on what they inherently value.

That discussion then leads into the goals discussion which then dictates the advice.

Determining their values helps articulate the goals and prioritise the goals, she says.

"First and foremost, I ask, 'What is it that you value most? Is it financial security or having freedom of choice around your occupation? Is it about supporting a charity or leaving a legacy?'

"Having the values discussions really help hone the goals discussions. We prefer to lead the conversation with clients starting with a values discussion before we get into goals," she notes.

What this does is help clients prioritise their goals and figure out what is important to them.

"Once you understand what they truly value, then the goals become a whole lot clearer," she says.

When it comes to advising men versus women, James does not customise her advice based on a client's gender

Instead, she looks at clients on an individual basis, and assesses their unique preferences and learning styles.

"However, something I have noticed more and more is that a husband and wife may have the same goals, but their values, motivator, or what brings them to those goals might be different," James says.

"The females tend to be more focused on security, whereas the males might be more focused on accumulation of wealth."

Women and men, by nature, tend to be motivated differently.

Women, she finds, tend to be more conservative and security focused while men are a little more confident and aggressive in their investment approach.

"They may both want to achieve the same thing, or the ability to retire comfortably, but the wife might, for example, want to prioritise repaying their mortgage, and setting themselves up financially so that they never have to be a burden on their children (giving them have a sense of security)."

Males might want to do the exact same thing, James adds, but they value having more time to spend doing the things that they enjoy or being able to retire earlier.

Determining what clients value gives advisers insight into what motivates them, what they prioritise in their lives, what makes them tick. It provides a window into their relationship with money.

"Having those values discussions, I believe, is really helpful in helping the client to ascertain what is really important and what they really want to achieve," James says.

"At the end of the day, my view is that financial planning is much more about life and discipline and structure than it is about products, investments and returns." FS

Applied Financial Planning:

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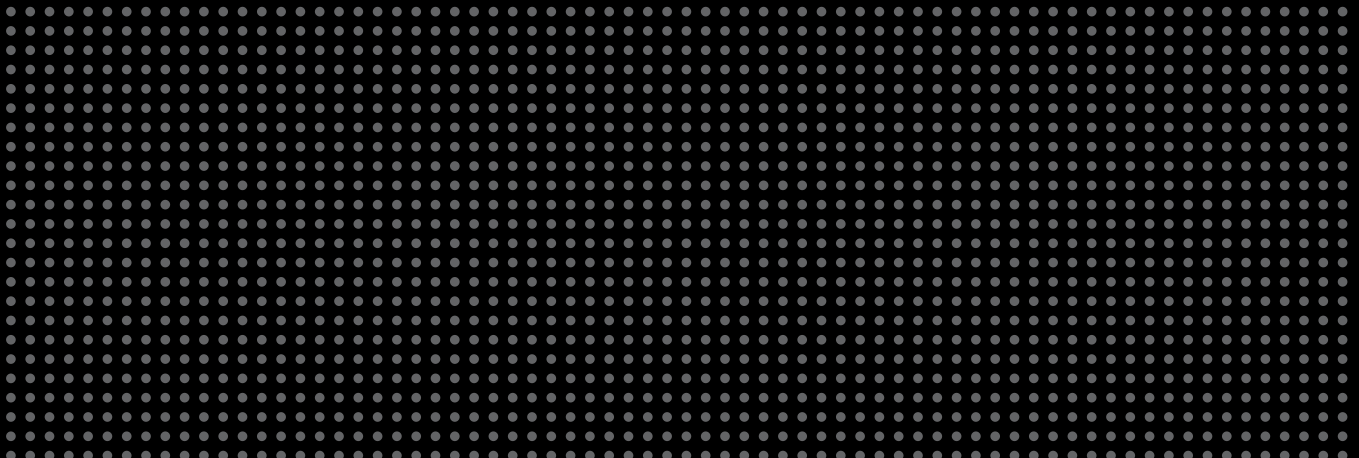

CPD

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Worth a read because:
Investment in people, processes, and technology by financial advice firms in the aftermath of the Hayne Royal Commission report is paying off, with high-performing firms seeing growth in revenue.

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A new era for financial advice

Nathan Krieger

A landmark survey has found investment in people, processes and technology in the era following The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Hayne Royal Commission) are starting to pay dividends for financial advice firms in both serving investors and in building sustainable businesses.

Australian financial advice firms, after years of struggling with regulatory change, look to be finally turning the corner as investments in new technology, improved processes and increased support personnel set them up for growth, according to a new study.

This more optimistic picture of the advice sector has emerged in a comprehensive new global and local study by Dimensional Fund Advisors, which found that firms have been focusing on improving processes and workflows to boost services and create platforms for renewed growth.

The survey, now in its tenth year in Australia and New Zealand, covered 75 local advice firms and was part of a larger survey of 740 firms globally that ranked businesses across five key metrics: revenue growth, client retention, employee retention, profit margin and revenue per adviser.

Each firm was given a percentile rank across those five variables, and the average of those determined the overall ranking. The top quartile of firms by overall ranking was selected as 'high-performing firms'.

Of the 75 advice firms covered in the Australasian segment of the survey, 18 or around a quarter of the overall sample, met the high-performing criteria.

What has emerged from the survey findings is that what distinguishes high-performing firms is an increased focus on improving efficiencies, putting new technology into effect, and investing in client service personnel.

A changing industry

The survey findings come following the completion of the Australian government's Quality of Advice Review led by Allen's lawyer Michelle Levy (the Levy review), who was tasked with looking at ways to improve Australians' access to high quality, affordable financial advice.

That review followed years of intense change and adjustment for the industry, going back to the Future of Financial Advice Reforms of over a decade ago, followed by the upheaval triggered by the Hayne Royal Commission report of 2019.

After the Hayne report, the major banks dismantled their vertically integrated businesses, while thousands of advisers left the industry in the face of new regulatory, compliance, qualification and certification standards. According to Rainmaker Information, the number of advisers in the industry dropped by almost 40% in the space of three years to less than 17,000 servicing a population of 25 million people.

An ASIC survey in 2020 found the top three factors driving the increase in the cost of providing advice were the increased compliance burden, more comprehensive due diligence processes and the additional time required to meet the best interests duty.

With the escalation in cost, compliance and certification, we have seen significant rationalisation and consolidation of advice firms. The market has become more fragmented, and we are start-

ing to see the introduction of alternative financial advice providers.

Encouraging signs

While Dimensional's recent surveys have confirmed that managing compliance and regulatory change has remained a major operational challenge for local advice firms, more so than for their global counterparts, encouraging signs are emerging.

Primary among them is greater attention being paid by many advice businesses to implementing workflow process improvements and to selecting and maintaining technology. Interestingly, the highest performing firms in the survey placed process improvements at the top of the operational areas they have been focusing on.

While managing compliance and regulatory change has remained for several years the number one challenge cited by most firms in the local market, the high performers now rate this only at number three, as seen in Figure 1.

The conclusion is that the years that top firms spent working on their businesses, as opposed to in their businesses are starting to bear fruit. That in turn is leading to a greater sense of optimism.

> While compliance and regulatory change is the number one focus for most firms, for high performers the primary focus is on workflow processes and technology.

What the numbers show

The survey found high-performing advice firms in Australia and New Zealand enjoyed, on a median basis, 19% year-on-year growth in revenue last year, as opposed to 14% among other local firms. High performers also generated more revenue per household at about $8,400 versus $7,400.

Further, the survey showed that the higher performing firms managed to provide a greater number of services to a larger percentage of their clients in areas such as tax, retirement and insurance planning. And on average, the clients of these top firms received their range of services at a 5% higher rate.

Figure 1. Operational issues: High-performing firms vs. Other firms

	Other Firms	High-Performing Firms
1	Managing Compliance/ Regulatory Changes	Implementing Workflow Processes
2	Implementing Workflow Processes	Selecting and Maintaining Technology
3	Recruiting/Hiring Qualified Employees	Managing Compliance/ Regulatory Changes

Source: Dimensional

Nathan Krieger, Dimensional Fund Advisors

Nathan Krieger leads the client group of the Australian business of Dimensional Fund Advisors – a global asset management firm founded in the US in 1981 and present in Australia since 1994. Dimensional has a long history of applying academic research to practical investing. The company now manages more than $800 billion from 14 offices globally, including $40 billion for clients in Australia and New Zealand.

The quote

While the common complaint over recent years has been one of change fatigue, increasingly evident in the survey are expressions of hope and opportunity.

How are they managing this? Obviously, part of the success is coming from improving efficiencies and implementing technology, but it is also a result of the more successful firms growing their client service support personnel significantly faster. This in turn is allowing those firms to service more clients per adviser without losing quality.

For instance, associate adviser numbers rose by 84% at the high-performing firms last year, against only a 4% increase at other firms. At the client service associate level, top performers increased numbers by 30%, as opposed to only 16% at other firms.

Admittedly, human capital is by far the largest expense for advice firms. Globally, for firms overall, this outlay represents 50% of revenue. For the high-performing firms, it represents a still sizeable 43%. But a focus on team structure also can deliver payoffs both in terms of efficiency and client service quality.

The result is the better firms are servicing more households and generating more revenue per household. On average, a senior adviser at a high-performing firm now services 173 households, as opposed to 122 households at other local firms. Average revenue per senior adviser was significantly higher at the top firms at $1.1 million versus $750,000 at other firms in Australia and New Zealand.

Room to grow

Overall, the benefits of investment in processes, technology and support staff are clear. High-performing firms in Australia and New Zealand enjoyed not only 19% revenue growth, but a 99% client retention rate and a 42% normalised profit margin.

That there is scope to improve upon that in the new environment emerging from the Levy review is evident when you compare those numbers with the global survey, where revenue growth reached 30% last year, and the average profit margin was 47%.

The Dimensional survey also reveals other distinctions between global firms and those in Australia and New Zealand, with local businesses less reliant on mergers and acquisitions as a source of growth and less likely to pay staff compensation via performance bonuses. In contrast, the cash compensation structure elsewhere has shifted away from base salary and towards bonuses in the last year.

Interestingly, another distinction between the Australasian and global survey findings is that the predominant reason for staff exiting firms in this part of the world was to leave the profession or quit the workforce completely, which suggested that a fundamental change is occurring as many advisers bring forward retirement.

A transition period

Clearly, we are in a transition period in the wake of the dismantling of vertical integration, the imposition of new qualification standards, and as newly professionalised and client-centric businesses shape up for further growth. But while the common complaint over recent years has been one of change fatigue, increasingly evident in the survey are expressions of hope and opportunity.

Firms have made substantial investments in productivity-enhancing technology, prioritised workflow process improvements and sought to enhance the overall client experience. The prospect of a simplified regulatory and compliance regime after the Levy review holds the promise of a new wave of growth in the years ahead.

We know from survey after survey that the demand for advice has never been greater. The issue has really been around how to deliver quality advice at a level that is both financially sustainable for advice businesses and beneficial to end clients.

Dimensional's global advice survey, over more than a decade, has suggested it is possible to achieve those aims, allowing advisers to build growing businesses that deliver a wider range of holistic services to a willing and ready market.

The recent local survey findings suggest the gap between the experience here and elsewhere is starting to close. **FS**

CPD Questions

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1. What distinguishes high-performing firms in the survey?
a) Size of the firm
b) Increased focus on improving efficiencies, technology, and client service personnel
c) Increased focus on compliance and regulatory change
d) Low human capital expenses

2. What was the primary objective of the Quality of Advice Review led by Michelle Levy, according to the article?
a) To improve access to quality, affordable advice for Australians
b) To evaluate the performance of individual financial advisers
c) To reduce the number of advisers in the industry
d) To ban vertically integrated financial advice model

3. What was the median year-on-year growth in revenue for high-performing advice firms in Australia and New Zealand according to the survey?
a) 14% b) 19%
c) 30% d) 84%

4. The survey found that high-performing financial advice firms are facing operational challenges similar to their global counterparts.
a) True b) False

5. The main reason for staff leaving firms in Australia and New Zealand was to leave the profession or workforce.
a) True b) False

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Worth a read because:
This article discusses some simple principles that can help increase the chances of getting your business loan approved, including the importance of having a clearly defined purpose, a strong business plan, and choosing the right type of loan facility.

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Navigating business loans

A guide to meeting lender criteria for business financing

Ulrika Lobo

Getting a business loan approved can be a challenge, but by following some simple steps, you can increase your chances of success.

First, what are business loans? A business loan is a financial solution that provides capital for various business purposes such as expanding operations, purchasing equipment or assets, or boosting cash flow.

The most common types are cash flow finance, equipment or asset finance, invoice finance, and overdrafts. Lenders typically want you to provide an asset as security for higher-value loans. Colloquially, 'unsecured loans'—that is, without asset collateral—based on the business's cash flow are generally called 'business loans' by the finance industry but this is a broad term and also covers loans for other business purposes.

For instance, let's say a brewery owner has applied for a business loan to purchase new machinery for the brewery. But something does not seem right. He has made the application, thoroughly reviewed it and believes it is watertight. But after submitting the application, he hears nothing? The tumbleweeds blow over the financial savannah and he either fails to hear back from the lender or is told they cannot help. What can be done to change this?

Working within a lender's parameters

The first thing a lender will want to know when you are looking for finance is the reason you have entered the ring and your repayment capability.

When you approach lenders looking for finance, they do not know who you are, why you need the money, or what your cash flow looks like. It is essential to have a clearly defined purpose as this is one of the first questions a lender will ask. They will want to know if you are a reasonable borrower who will not be going in over their head—the last thing they want is to facilitate a risky purchase that jeopardises their loan repayment.

Lenders will want to know your history and experience. Your financial and business records will give a lender confidence in your ability to sustainably repay a loan. These components should be included in a robust business plan outlining your goals and financial performance. Preparing such a plan will help you determine the specific changes you want to make to the business, which will in turn give you a more accurate picture of the size of the loan your business will require. A strong business plan will also help to ensure that you are taking out the correct type of facility.

Lenders will have a suite of loan products with different structures, terms, repayment schedules, and rates. So knowing what you are looking for will stop you from overpaying and increase the likelihood that your application will be approved.

For example, if you are looking to purchase new assets—such as fermentation tanks for a brewery—a cash flow loan with its high rates and limited flexibility may not be suitable. A cash flow loan is a type of business loan that provides short-term funding to meet the day-to-day cash flow needs of a company, and is assessed based on your ability to meet a fixed repayment through your business cash

flow. You can also use a cash flow loan for other business purposes as long as you have sufficient cash flow to service the loan. The loan is typically unsecured. Your repayments will include interest and principal amounts whereby your final repayment will signify your repayment of your loan in full.

Given these high upfront costs, a lending specialist might suggest other asset financing options such as a chattel mortgage or finance lease, depending on your future strategy for the facilities such as how often you plan to upgrade your equipment or your tax position. A chattel mortgage is a type of loan used to finance the purchase of a specific asset, such as a vehicle or equipment. The lender retains ownership of the asset until the loan is paid in full. At that point, the ownership of the asset is transferred to the borrower. A finance lease is a type of lease agreement in which the lessor (the lender) provides the lessee (the borrower) with the use of an asset for a specified period of time in exchange for regular lease payments. At the end of the lease, the lessee may have the option to purchase the asset for a predetermined price.

Repayment capability: The business' cash flow

This is one of the most crucial parts of your application. You must have prepared a profit and loss or cash flow statement to show your lender that you have the funds to repay the loan. Think of your initial discussion with your lender as a first meeting with the in-laws—they will want to see that you have a stable income, act with integrity, and stay on top of your affairs.

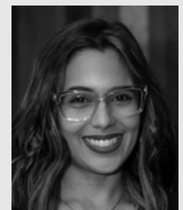
Lenders who hold a credit license must meet the Australian Securities and Investments Commission's (ASIC) responsible lending requirements. In turn, they must verify and assess a borrower's financial situation to judge whether the credit contract is appropriate for them. Lenders acting in good faith will only write loans that their borrowers can service comfortably. They will want to see that your business has a regular and reliable revenue stream that keeps the accounts buoyant. If you have money flowing in, you will not be crunched to repay your debts.

Typically, lenders will have a ratio of income to debt they want to maintain. This sets the ceiling for what they are willing to lend and varies depending on the lender. So the more income you have, the more they will be willing to give you. It is also important not to neglect debts and expenses. The more positive your financial position, the better things will go for you.

If you are taking out a loan to cover a capital shortfall, things may be more complicated. The lender will need to carry out some detective work into your business' credit history, spending strategy and whether the security you offer will suit the loan.

For instance, a lender is likely to be happy to fund a busy cafe on a Sydney high street that needs to purchase some extra coffee grinders and machines to increase output to meet high demand. In this example, there is a clearly defined purpose relevant to the operations and the business is in an excellent financial position. However, the situation would be completely different if the business wanted to purchase new equipment, but the cafe had $500,000 in unpaid tax debt and was barely making even. It is essential to keep clean and accurate financial records as part of this financial responsibility.

Lenders will not just take your word that your cash flow is sufficient. They will want to see financial statements to make their decisions. If there are holes in the accounting or unusual sums of money floating around without explanation, they are unlikely to trust your documents. So it is essential to keep credible, timely, and ac-



Ulrika Lobo, Sparrow Loans

Ulrika Lobo is the director of Sparrow Loans, a Sydney-based private lender, and Blue River Finance, a short-term lender to businesses. She is also the host of inDebt with Ulrika Lobo (Spotify podcast). She was a finalist in the Women in Finance Awards in 2020 and 2021 and won the Western Sydney Women's Entrepreneur of the Year award in 2021.

curate records of your accounts. This should also entail separating your personal and business finances.

The quote

The first thing a lender will want to know when you are looking for finance is the reason you have entered the ring and your repayment capability

Understand your lender's requirements

Nobody wants to read the fine print however this is where all of the crucial details are contained. Different lenders have different requirements for property security. Most will happily accept or require real estate as collateral for a loan. So the amount they are willing to lend to you is hamstrung by the value of the property asset you have available.

What kind of security are lenders looking for?

Essentially acceptable security under business loans should meet the following criteria:

- have a measurable market value that can be converted to cash
- have access to an active buyer base
- be utilised for business purposes, and
- have transferrable ownership.

As an example, many lenders prefer metropolitan or regional properties in good condition and active markets when dealing with real estate security. This is bolstered if the properties are residential, commercial or industrial and have good income-earning or development potential. These properties are more predictable, stable, and easier to sell if the borrower cannot repay the loan.

Of course, there are exceptions. Some lenders are happy to accept specialised property or use rural property assets. However, as a general rule of thumb, a well-located investment or commercial property will be prime security that a lender will be willing to accept. Once you have suitable property security or a suitable asset to use as security, your lender will determine how much you can borrow using a loan-to-value ratio (LVR). Typically LVRs sit between 50% to 70%. This means that your loan amount will be between 50% to 70% of the total value of the asset offered as security at the time the loan is written.

Nailing the specifics

Before they approve your application, lenders will need to know the specifics—the amount you want to borrow, when you are planning to commence repayments and the term of the loan. Being clear on these points beforehand will save you time and make the process of taking out the loan much smoother.

The lender will also need you to agree on exit fees, ongoing fees, early repayment fees, and valuation fees, among others. You must understand your loan obligations and be ready to pay them as they fall due.

Documentation

Finally, you will need to have documentation prepared for your loan officer. This can include the following:

- A completed loan application
- A minimum of two years' worth of financial statements, tax returns or recently submitted Business Activity Statements (BAS)
- Identification documents to evidence 100 points of identification
- A bank statement detailing the most recent three to 12 months of trading history
- A personal statement of financial position setting out all your business and personal assets and liabilities
- Documentation to support your business structure, for example, a legitimately registered company or business that can be verified on the ASIC database and the ABN register, trust deeds if you are borrowing under a trust structure, or any other documentation as required such as a partnership or joint venture agreement, based on the structure of the borrowing entity
- A business plan or financial projections
- An organisational chart of related entities if you have multiple directors and businesses that may be a party to or guarantee the loan
- Proof of address
- Proof of asset ownership
- A copy of your credit report for all guarantors and borrowers or a signed consent form giving the lender permission to obtain this from an information broker

Final thoughts

Returning to our first example of the brewery owner trying to fund the purchase of new machinery. The business owner had been denied before, but this time he has been careful in his application and anticipated everything the lender could ask for. He has provided a robust business plan, he has bullet-proofed the financial statements, he has offered a suitable property as security and has provided all other required documentation. This is the well-organised and prepared position from which you want to negotiate.

Getting a business loan approved can be more straightforward than you think. Show the lender that you have a clear purpose, a strong business plan, and the ability to repay the loan, and you will be on your way to securing the funds you need to grow your business. FS

CPD Questions

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1. According to the author, which type of loan is likely to have the highest upfront costs:

a) Cash flow finance
b) Financial leases
c) Chattel mortgages
d) Home equity finance

2. A lender will undertake more rigorous investigations into a business's history and strategy when the loan is to:

a) purchase equipment
b) cover a capital shortfall
c) fund day-to-day cash flow
d) purchase business assets

3. What is the primary factor that determines the amount a lender will be willing to lend a business?

a) The LVR
b) The lender's internal policies and guidelines
c) The lender's profit margin
d) The value of the property asset that is available as collateral

4. The typical LVR for a business loan is between 40% and 60%.

a) True
b) False

5. A chattel mortgage is used to finance the purchase of a specific asset with the ownership retained by the lender until the loan is paid off.

a) True
b) False

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Caring for a disabled adult child is a lifelong undertaking but what happens when the carer dies or becomes incapacitated? This article discusses how careful planning can ensure that an adult disabled child is provided for during the carer's lifetime and beyond.

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Caring for your disabled adult child

What can go wrong?

Brian Herd and Rebecca Edwards

It is a lifelong devotion to duty for a significant proportion of the over two million family carers in Australia: namely, parents—often elderly—caring for their disabled adult children.

Longevity, however, is not all that it is cracked up to be. As carer parents grow older and suffer the slings and arrows of ageing, there are two major events that can impact on care for their disadvantaged children—the parent's death or disability. The effect of these events can vary depending on the complexity of the caring scenario. Recently, for example, we assisted a woman in her late 70s who was caring both for her 82-year-old husband with dementia as well as their 61-year-old son, who suffered from a congenital brain disorder.

The impact of the death of carer parents

Elderly carers tend to suppress their subliminal fear of adverse events and find it difficult to confront and plan for them. In part, this can be due to a misguided faith in what we call the 'delegation of devotion'—relying on their other children to carry on the caring tradition if, or when, necessary.

It is not uncommon in families where, as parents age, the disabled child's siblings can start to assume increasing responsibility for the management and care of their disabled brother or sister. While the parents are alive, the other children can feel some moral imperative, not so much for their disabled sibling, but more for their ageing parents to relieve them of the burden. However, this sense of duty can quickly evaporate when the parents die or even lose their capacity.

This is exactly what happened in the Bronson family. Harry Bronson, a widower, had two adult daughters, Judith and Debra. They could not have been more different. Judith was a successful businesswoman and Debra suffered from significant and lifelong medical issues, was blind and depended substantially on her father's support.

In the denouement of his life, Harry had become increasingly anxious about Debra's future. He was concerned that if he left her a large inheritance from his extensive estate, it would all just wash through her fingers or others might take advantage of her. Shortly before his death, and after a discussion with Judith in his hospital bed, Harry decided to change his previous Will which gave his $4 million estate equally to Judith and Debra. He made a new Will that gave everything, instead, to Judith in exchange for Judith's verbal promise that Debra would be looked after and have everything she needed for the rest of her life.

Harry's eyes then closed for the last time and Judith's eyes opened wide. In fact, they veritably lit up. Just after discreetly exclaiming 'Eureka!', she let Debra know she could now fend for herself and whistle dixie.

Debra dutifully sued Judith, her sister. Her claim was for a breach of contract by Judith in failing to live up to her promise to her father to take care of Debra. It was estimated that it would cost some $2 million to provide the care and sustenance that Debra needed for the rest of her life. Debra was ultimately successful in receiving $1.4 million.

The tragic irony was that Debra's success defeated Harry's wishes in two fundamental ways:

- Debra could now spend the money as she wished, and
- Any relationship between Judith and Debra was irrevocably destroyed.

While you can be understandably highly critical of Judith's blatant opportunism, in the end, the dissipation of his desires and the implosion of his family were really down to Harry's follies and failures as follows:

- Expecting Judith to do the right thing—despite the almost irresistible incentive he placed in front of her, not to.
- Doing it on the cheap—he wrote his own last Will, a DIY version.
- Not seeking any advice from those 'piranhas' he called lawyers—a good lawyer would have told him about some intelligent devices to insert in his Will—such as a special disability or protective trust—which could have achieved his aspirations for Debra and maintained her relationship with Judith after his death, and avoided a dispute.
- Ensuring his estate was reduced (as it was) by the legal costs of $728,740 and thereby, unwittingly including the lawyers as 'default beneficiaries' of his estate and depriving his own beneficiaries.

Like many stories from the world of life, death and the law, this one does not have a happy ending. But it does have a moral—feel free to trust your children on earth and to take that trust to heaven with you. However, just as many of us risk-manage our lives by insuring our car and house, why not risk manage your death and insure the trust you repose in your children by getting a bit of 'trust insurance'?

Good lawyers provide 'trust insurance' and, for an appropriate premium, can give you all the tools necessary to ensure your dreams and desires for your disabled child are fulfilled.

The impact of disability of the carer parents

What are the implications for your adult child if you should lose your capacity and be unable to continue to care?

It is crucial to plan properly for yourself and your child in the event of another increasingly common event—being unable to care anymore because of frailty or even losing your capacity to manage your own life, let alone that of someone else.

Living longer sounds great but it comes with some downsides, particularly adverse medical events. A common one arises from the inevitable fact of longevity—once we pass the magic age of 80, there is a one in four chance that we could suffer from dementia or some other debilitating physical or mental condition. If you have been caring for an adult child, an inability to continue to do so combined with a failure to prepare or plan for that can create a major family crisis that can lead to all sorts of calamitous consequences.

Here is a recent example. Betty was 82 and her husband had recently died. She had four adult children, three of whom were independent, well-established, and prosperous. Her fourth child, Bonny, aged 58, had been born with severe down syndrome. Bonny had lived in the large family home with Betty, and her late husband all her life and was totally dependent on her parents. Bonny received a disability pension, but Betty's financial circumstances as a self-funded retiree meant she did not receive any social security assistance.

Brian Herd, HopgoodGanim Lawyers

Brian Herd is a partner at HopgoodGanim. He has extensive experience in a range of fields including life planning for older people, Wills, administering estates, disputes over Wills, superannuation, social security, retirement villages and aged care, incapacity and the Guardianship Regime.

Rebecca Edwards, HopgoodGanim Lawyers

Rebecca Edwards is a senior associate at HopgoodGanim. She has significant experience assisting clients in matters involving superannuation.

Despite all her previous good health indicators, one day, suddenly and unexpectedly, Betty suffered a stroke and spent some 10 days in hospital. When she was due to be discharged, she had lost the power of speech as well as most of her decision-making capacity. The extent of the sudden crisis management demands on the family became clear when it was realised that:

- While Betty had made an Enduring Power of Attorney, she had only appointed her husband as her Attorney and he was now deceased. This meant that Betty had no Enduring Attorney and no one else who was legally entitled to make financial decisions for her.
- Betty could not return home and had to be admitted to an aged care facility. This required the payment of a large refundable accommodation deposit of $400,000.
- Bonny was now living in the family home alone. The other children had to work hastily on an agreed roster to be with Bonny in shifts throughout the day and night—there was even discussion about having Bonny move in with one of their families.
- More permanent arrangements for Bonny's accommodation and care needs were now paramount.

The other children were now faced with an unenviable series of decisions and actions that were required to be addressed immediately to protect Betty and Bonny's welfare.

Here were some of the conundrums they had to face:

- Financial decisions were needed to be made for Betty including how to pay the $400,000 to the aged care facility. The most immediate way to do this was to sell the family home, which would then leave Bonny high and dry.
- With no one entitled to make financial decisions for Betty, someone had to apply to the Queensland Civil and Administrative Appeals Tribunal to be appointed her Administrator. The trouble was this would take time and to make matters worse, none of the children could agree as to which of them should apply.
- Financial, lifestyle and personal decisions now had to be made for Bonny as well. Further trouble arose on this aspect when it was realised that Bonny had never made an Enduring Power of Attorney appointing anyone formally to make decisions for her because it had not been needed before and, in any event, Bonny did not have the requisite capacity to make such a document.
- As Bonny could not live in the home by herself, where was she going to go and who was going to pay for the costs of alternative accommodation and care?

These were just some of the pressing issues confronting this family that were almost guaranteed to inject a high degree of tension, stress and anxiety in all of the remaining children and could potentially result in the implosion of the family.

Needless to say, from an objective view, the scenario was not entirely unexpected and to some extent was almost inevitable. Yet none of the family had the foresight and motivation to actually plan for it and do something about it beforehand.

Some of the things that we would have advised needed to be addressed before the crisis occurred would have been:

- Betty should make a new Enduring Power of Attorney (EPA) after her husband's death. It would not be any old EPA but rather it would contain special terms and directions that Betty could insert including what should happen to Bonny if Betty lost her capacity to make her own decisions and decisions about Bonny's welfare. This might include, for example, a special clause to require her Attorneys to use so much of Betty's money as is necessary to ensure that Bonny's care and accommodation needs are met.
- Betty should obtain some good financial advice to address the potential financial demands that would arise from the very scenario that ensued.
- Betty should make a new Will in which she would be advised to incorporate what is known as a Special Disability Trust for Bonny that would enable Bonny to have the benefit of a share of Betty's estate and at the same time preserve her disability pension.

What is a Special Disability Trust?

A Special Disability Trust (SDT) is a trust established by parents and immediate family members for the future care and accommodation needs of a person with a severe disability.

The overarching idea of an SDT is to allow for the financial support of a disabled family member. Depending on circumstance, SDTs can be a great way to provide for a disabled person because if set up and administered properly, they may enable the preservation of a person's disability pension. However, there are strict rules around who will qualify to use an SDT and what the trust money can be used for.

Who qualifies for a Special Disability Trust?

To be eligible, the proposed beneficiary must have what is referred to as a 'severe disability'. A person is considered to have a severe disability for the purposes of an SDT where they meet one of three particular definitions.

The three definitions are detailed on the Services Australia website; for example, the beneficiary would typically need to have a level of impairment that would make them eligible for a Centrelink support pension.

Can a Special Disability Trust be set up for a child?

Children under sixteen years of age may also be eligible to be the recipient of an SDT. However, it is important to understand that there are special rules which apply when setting up these Trusts for children.

What can the Special Disability Trust funds be used for?

The primary purpose of these trusts is for the income and capital to be used to meet the reasonable care and accommodation needs of the disabled person, as well as other incidental costs for them such as dental and medical expenses and if the trust contains a property, then associated maintenance expenses.

The trustees need to understand the relevant rules about the operation of the SDT and always comply with them when administering the trust. For example, monies must be used for the reasonable care and accommodation needs of the beneficiary and spending on discretionary items must not exceed $13,000 (from 2022/23 and indexed each July).

What are the main characteristics of a Special Disability Trust?

Some of the key SDT requirements include:

- have one beneficiary who meets the criteria for the establishment of an SDT;

- the main purpose of the trust must be to provide for the accommodation and care needs of the beneficiary;
- have a deed containing specific information about how the trust will work and which meets the criteria for an SDT trust deed;
- have an independent trustee, or alternatively have more than one trustee;
- comply with various requirements about the management of the SDT including:
  - meeting investment requirements,
  - lodging tax returns,
  - conducting audits as required; and,
  - reporting annually to Centrelink (or Department of Veteran Affairs).

What are the benefits of a Special Disability Trust?

If used correctly, SDTs allow:

- "a gifting concession of up to $500,000 combined is available for eligible family members of the principal beneficiary,
- an assets test assessment exemption of up to $724,750 (indexed 1 July each year) is available to the principal beneficiary."[1]

How do I set up a Special Disability Trust?

SDTs can be set up at any time including under a person's Will so that money left to a disabled person as part of an estate can form part of a SDT for their benefit. They are created by way of deed which are usually prepared by lawyers.

The issues discussed are just some of the points that should have been raised with somebody in Betty's circumstances. If Betty had confronted them before the crisis hit, the transition in her family's circumstances would have been far smoother and, from experience, may even have been crucial in keeping the family together. As it was, in avoiding the future realities, Betty had effectively assigned her family to disharmony and disarray, something she would never have wanted.

The impact of the death or disability of carer parents can lead to adverse outcomes for their disabled child, as well as causing distress and disputes among surviving siblings. Careful planning is needed to ensure that disabled adult children are provided for. Seeking the advice of specialist estate planning professionals is crucial to ensuring that the parents' aspirations for their disabled child are fulfilled. **FS**

HopgoodGanim Lawyers is a leading Australian independent legal and advisory firm operating nationally and internationally with a focus on Asia from Brisbane and Perth. It offers highly skilled and agile legal teams across key sectors and areas of practice, with lawyers recognised by legal publications as leaders in their fields. For further information go to www.hopgoodganim.com.au

1: Services Australia - https://www.servicesaustralia.gov.au/benefits-special-disability-trusts?context=21876

CPD Questions

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1. What is the primary focus of the article?
a) The impact of a death on family dynamics
b) The problems associated with longevity
c) The importance of long-term planning for disabled adults
d) The importance of preparing for aged care funding

2. According to the article, why do older carers fail to adequately plan for their adult disabled child?
a) They expect that their other children will take on the care of the disabled child
b) Their fear of adverse events makes carers reluctant to confront them
c) They believe that they are immune to adverse events
d) Both A and B

3. According to the article, which of the following failures are attributable to Harry?
a) He relied on a verbal promise made by Judith
b) His actions/inaction resulted in the destruction of any relationship between his two daughters
c) He made a DIY Will rather than getting professional advice
d) All three

4. A Special Disability Trust allows for discretional spending up to an indexed annual limit set at $13,000 in 2022/23.
a) True b) False

5. A Special Disability Trust can only be set up under a person's Will.
a) True b) False

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CPD

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Worth a read because:
This article comprises an excerpt from the *Compensation Survey of Australian Advice Firms* conducted by Business Health, aimed at understanding the benefits packages that advisory firms are offering their staff, and identifying key issues of strategic importance for business owners.

Visit www.financialstandard.com.au and click 'FS Aspire CPD' in the menu or call 1300 884 434 to gain access to the platform.

Swimming at the deep end of the talent pool

Compensation survey of Australian advice firms

Rod Bertino

This paper comprises an excerpt from the *Compensation Survey of Australian Advice Firms*, to access the report in full go to www.businesshealth.com.au.

There is no doubt that the ability of financial advisory firms to attract and retain the best available talent is now one of the keys to their long-term, sustainable business success. And to further highlight just how significant employees are to an advice business, our Future Ready IX[1] whitepaper released last year revealed that for the average advice firm, staff compensation now accounts for 48 cents of every dollar of revenue generated and represents 63% of all business expenditure.

Given the substantial impact employee costs have on a practice's ongoing viability and profitability, it is perhaps no surprise that quality staff are extremely difficult to find and even harder to keep. And, with the demand for good people only set to continue to soar in the coming 12 months, in what is already an overheated marketplace, practice principals need to keep abreast of the latest trends in this space and know just how their salary and benefits packages compare to the marketplace.

As part of our ongoing commitment to supporting the Australian advice community, Business Health recently completed a research project aimed at better understanding what benefits packages advisory firms are currently offering their staff. With almost 100 practices contributing data, we were delighted with both the participation levels and the breadth and depth of information provided.

The research results, to our mind, raise a number of important questions and concerns. Our passion for helping to build a high-quality, sustainable and profitable advice profession remains steadfast and we are sure you will agree this paper makes for compelling reading and careful consideration.

While the key findings in this research paper will have different implications depending upon the reader and their role in the financial advisory ecosystem, our analysis has unearthed a number of key issues which we feel are of real strategic importance and warrant further focus and consideration.

The king is dead, long live the king

As talented as lead advisers may be, they simply cannot deliver on the full value proposition alone, without the backing of a skilled, dedicated and integrated service team.

While traditionally advisers have held the 'glamour role' in the business and are often seen as the rockstars of the profession, there is now a growing acknowledgement that they can only be as good as the back-office team that supports them. As more firms awaken to this

realisation, the demand for quality client service staff will only intensify.

This is clearly highlighted by the fact that 50% of the firms who participated in this survey stated they intend to add additional client service managers/officers to their business in the coming 12 months.

With the quest for professional service-orientated support staff becoming one of the key business issues in 2023, if they wish to be considered an employer of choice, many firms will need to review the benefits package they offer to their non-advisory personnel.

Without a change to their stance on some of the following benefit options, it will become increasingly difficult for these practices to remain competitive in a hot marketplace.

The people that got you here, may not get you there

While the principals/owners will still set the strategy and direction of the firm, delegating implementation of the business plan to a skilled and trusted business manager could free up the most expensive resource in the practice, that is, the principal, to focus on activities that will deliver the greatest business return.

If the past few years have taught us anything, it is that the world can change very quickly and to survive in business, firms need to be adaptable and willing to invest in the key drivers of success. For advisory practices, this undoubtedly includes the people who work in the business.

We strongly encourage all practice principals to think very carefully about where they want their business to be in five years' time and specifically, what skill sets will be needed to successfully make this journey.

As the complexity and time commitment needed to keep on top of all the moving parts that make up today's advisory firm continue to increase almost exponentially, it may now be time for principals to consider bringing someone onboard to manage the day-to-day running of the business.

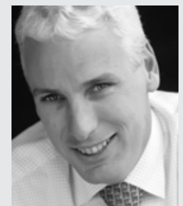
While two-thirds of the practices in the survey group are looking to add new personnel to their roster in the coming 12 months, only 15% will be recruiting for a general manager/practice manager. Having the right people in the right roles will be critical and depending upon the desired end state, this may necessitate a change to the team or the operational structure of the business.

As it gets more and more difficult to attract quality people into advisory practices, some firms may also benefit from broadening their search a little. Rather than focussing heavily on formal education qualifications and past experience in the advice sector, practice owners may need to look further afield towards those from non-advice backgrounds with transferable skills.

More than just the money

Regardless of the various elements that may be offered, we strongly recommend that practice principals focus heavily on continually reinforcing the totality of a package, not just the headline salary component.

In an overheated marketplace, there will always be a competitor willing to throw more money at a targeted recruit. And for some employees, this will be a lure they are unable to resist. However, others will be more interested in the complete package and many of the benefits we discuss later will be important factors in their decision-making process.



Rod Bertino, Business Health

Rod Bertino is a principal of Business Health, a practice management firm. His company was established over 20 years ago to provide practical 'down to earth' assistance to businesses with a particular emphasis on the financial services industry. Before Business Health, he worked with Australian and international financial services organisations such as Guardian Assurance plc, Zurich Australia Limited and the AXA-owned Charter Financial Planning.

While the ancillary benefits section of this paper details the many non-salary benefits Australian advisory firms currently offer to their employees, through our consulting work we regularly find that many team members are unaware of the full financial value of their entire benefits package.

The challenge for employers is to, wherever practicable, actually quantify in dollar terms the 'cost' of the benefits they provide and each year, issue every team member with a total compensation statement that shows the full value of the package they are delivering. Armed with this knowledge, perhaps an offer from a competitor may no longer seem that attractive!

Of course, this will not address the intangible benefits that come from working in a business—the culture of the firm, alignment of values, and the care and compassion shown to both staff and clients are all incredibly important attributes that appeal to current/potential employees.

Working from anywhere

Working remotely is here to stay and Australia's advisory practices clearly understand this—92% of firms now offer their team the opportunity to work from home.

Hopefully the worst of the COVID pandemic is well and truly behind us and while we are learning to live with the virus, its one lasting legacy has been the accelerated shift towards remote working. In the main, advisory firms did a great job in quickly pivoting to the work-from-home model that was thrust upon them and successfully piloted their businesses through the enforced office closures.

Even though these mandates have now been lifted, employees are not rushing back to the office en masse to resume a nine-to-five, Monday-to-Friday working week. This brings a whole new set of inherent, and serious risks that need to be carefully managed to ensure the business is protected in the new hybrid working environment.

The adequacy of a firm's cyber protection structures is a pertinent example—many staff are still using their personal devices to access client and company files when working remotely (an extremely high-risk practice) and very little attention is being paid to providing a safe, healthy and proper space for employees when they are working from home.

Another great challenge associated with managing a remote workforce is building/ maintaining company culture, fostering teamwork/ camaraderie and combating the risk of isolation and loneliness.

Of course, these are global concerns not unique to Australia, however, they do pose a very real and immediate threat to our advice businesses and they will need to be carefully managed by practice principals as they evolve their remote working policies and procedures.

Ten early warning signs that your remote workers may be struggling

1. A noticeable drop in productivity, with turnaround times slowing down and deadlines being missed.
2. An increase in negative client feedback or complaints.
3. Adverse feedback, comments, observations from your professional network (such as development managers, referral partners and product providers).
4. Staff are complaining about their colleagues.
5. Emails are being sent out of business hours, late at night or on the weekends.
6. Attendance/participation in team meetings is well below the usual.
7. Proactivity has been replaced by reactivity. Suggestions/solutions not forthcoming.
8. Requests for holidays and sick leave are on the increase.
9. Poor results from your most recent staff satisfaction survey.
10. Pulling out of training/development courses.

Reward the behaviours you want

Investing money in incentive payments that do not incentivise is a very poor deployment of capital.

While we were a little surprised that 43% of firms are not willing to share the success that employees helped to deliver, of even greater concern was the fact that half of the owners/principals that do offer their staff a bonus plan, are not confident that their incentive program is delivering the desired results for their employees or for the business.

We also know from the thousands of staff who have participated in our Employee Satisfaction Survey that bonus programs involving a high degree of owner/manager discretion are fraught with danger. A third of business owners state that their incentive program is not based on clear, measurable and pre-agreed individual performance objectives and over half report that their incentive payments include a discretionary overlay.

The challenge for smaller firms

There is a need for smaller businesses to differentiate their staff offer from larger competitors and to understand what additional benefits they can offer that may not be available in a larger firm.

What we have been able to conclude from our series of Future Ready analysis papers is that many smaller practices—with gross revenue of less than $500,000—are struggling to deliver an acceptable profit return and there is a direct correlation between profitability and the number of support staff.

When comparing results from the smaller practices—those with three or fewer employees— against the larger businesses, those with

more than three employees reported paying higher than average salaries and larger bonuses and were far more likely to offer their team members an enhanced package of ancillary benefits.

Of course this doesn't necessarily mean the smaller firms will not be able to attract or retain quality staff. What it does highlight however is the need for smaller businesses to differentiate their staff offer from larger competitors and to understand what additional benefits they can offer that may not be available in a larger firm.

While a competitive salary is a prerequisite, smaller practices may, for example, be able to offer a warmer/more familial culture, direct access to the owners/leaders of the business, more engagement with clients and fast-tracked equity opportunities. Moving forward, these attributes will be highly sought after by some employees, and when positioned correctly could help clearly differentiate the smaller firms from their larger competitors and enhance their standing as an employer of choice.

Salary packages

On average, each Australian practice employs 2.7 experienced advisers, and this is the most expensive role within the business. The average salary for an adviser with more than five years' experience is now just under $150,000.

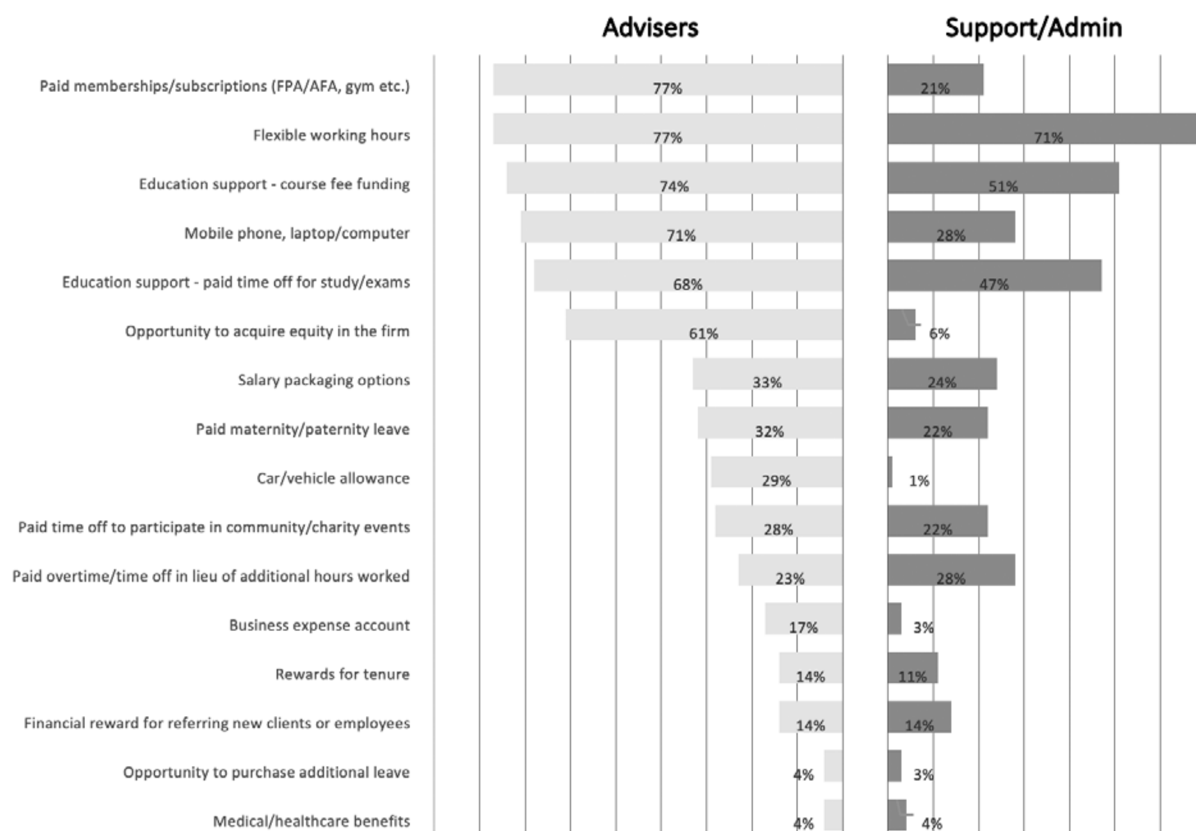
Average salaries for other roles within a financial planning business are set out in Table 1.

Table 1. Australian advice firm national average salaries by role

Role	Salary (Incl. Superannuation)	Bonus/Incentive	Total
Adviser with more than 5 years' experience	$149,443	$11,519	$160,962
Adviser with less than 5 years' experience	$97,872	$7,414	$105,286
General Manager/Practice Manager	$129,168	$5,609	$134,777
Professional support	$115,188	$3,375	$118,563
Paraplanner with more than 5 years' experience	$107,075	$2,826	$109,901
Paraplanner with less than 5 years' experience	$74,127	$2,481	$76,608
Client service manager/ officer	$75,036	$1,767	$76,803
Administrative/reception	$58,207	$1,131	$59,338

Source: Business Health

Figure 1. Ancillary benefit types offered by percentage of advice firms



Source: Business Health

CPD Questions

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1. **What point does the author highlight about the role of lead advisers in an advisory firm?**
   a) Client service managers are more important than lead advisers
   b) Lead advisers are the only ones who can deliver on the full value proposition
   c) A skilled back-office team is crucial for the success of an advisory firm
   d) Non-advisory personnel are more important than advisory personnel

2. **What is the main recommendation for practice principals when offering a benefits package to potential employees?**
   a) Emphasise the headline salary as the most important component
   b) Reinforce the total value of the package, including non-salary benefit
   c) Offer the lowest feasible salary to maintain profitability
   d) Emphasise a warm, familial culture

3. **What concern(s) associated with managing a remote workforce is/are highlighted?**
   a) Maintaining company culture and fostering teamwork
   b) Staff using their personal devices to access company files
   c) The need to ensure a safe and healthy remote workspace
   d) All three

4. **Research cited found that the most common ancillary benefit provided to support staff is flexible working hours.**
   a) True b) False

5. **According to the author, emails being sent outside of business hours is an indicator of productivity.**
   a) True b) False

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Ancillary benefits

While offering a competitive financial package to employees and potential new team members is a great start, this alone may not be enough to attract and retain the talent needed to build and grow the successful advisory businesses of the future.

Based on the key findings shown in Figure 1, many of Australia's advisory firms may need to review the depth and breadth of their employee offer to ensure it continues to align with the changing expectations of today's (and tomorrow's) workforce.

Recruitment intentions

Demand for quality staff is currently at an all-time high and the market does not show any signs of cooling during the coming 12 months. Two-thirds (68%) of advisory firms reported that they are looking to add new members to their team during 2023, with competition greatest in the city/metropolitan areas where 72% of practices will be actively recruiting.

Notwithstanding the nuances of the individual business vis a vis its peers and competitors, there are a number of steps we believe every business owner can implement to enhance their Employee Value Proposition (EVP) with the intention of attracting and retaining quality employees.

1. Satisfaction surveys - never assume what your staff are thinking. Commit to undertaking a staff satisfaction survey every year.
2. Remuneration review - touch base with the market each year through independent research. It can move quickly.
3. Look to benefits - while remuneration starts with money, it is very often the 'ancillaries' which make the difference.
4. Proactively promote your EVP, namely on your website and through your network.
5. Remuneration is your biggest outlay, but it should not be viewed as an expense - make it an investment by determining what you want out of each role and measure your ROI.

In closing

We trust this report gives you some insight into the current state of the employee marketplace and we hope it goes some way to keeping you informed and well-placed to assess your remuneration strategy going forward. We wish you much business success for 2023 and beyond. FS

Reference

1: Future Ready IX Report: Insights into the Australian Advisory Profession, Jan 2022, is available for download at businesshealth.com.au/future-ready-ix-report/.

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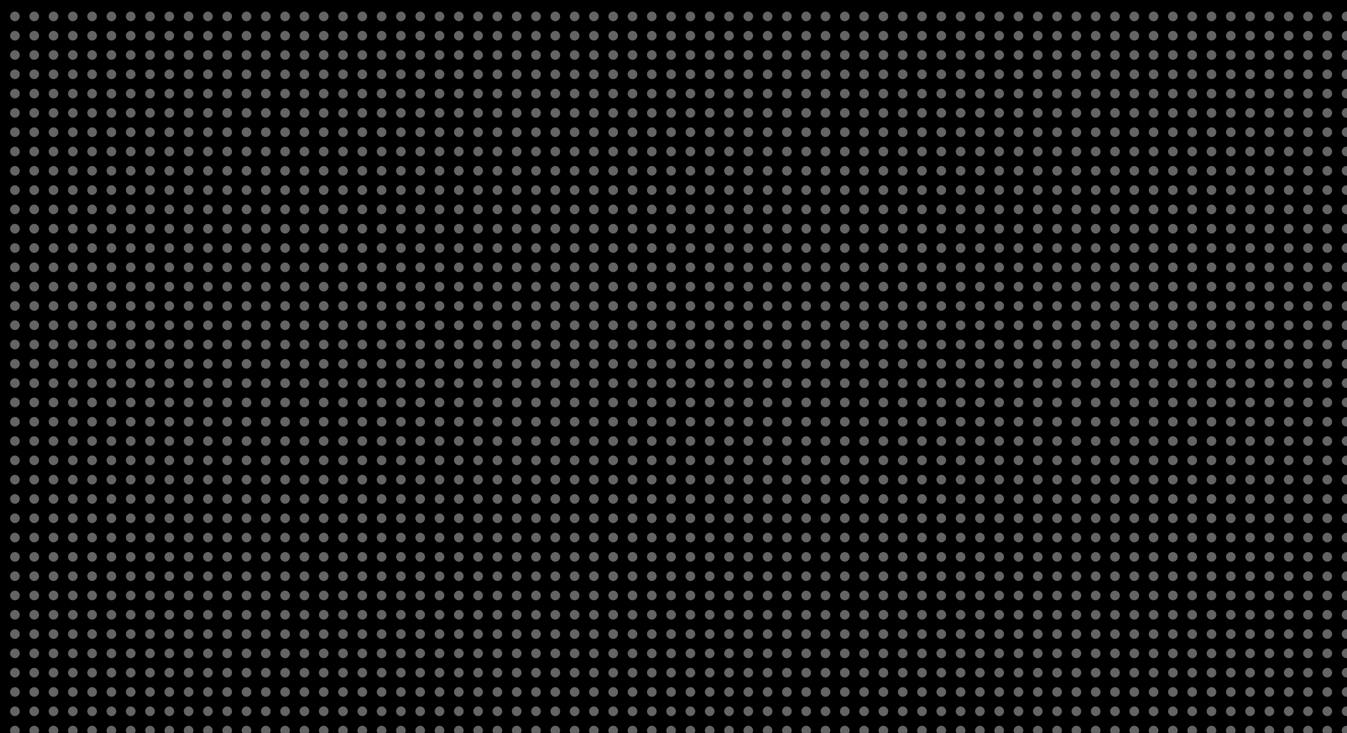
Communications & Marketing:

44 **CX: Experiences that keep your customers coming back**
By Jodie Knowlton BDO



CPD

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Worth a read because:
This article discusses why 'good enough' is not enough in designing your approach to CX (client experience) and looks at optimising the client journey, embracing feedback, and making the most of data.

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CX: Experiences that keep your customers coming back

Jodie Knowlton

The way customers or clients interact with businesses has rapidly evolved in recent years. What has not changed, however, is the need to provide an outstanding experience in order to retain those customers.

Customer, or client, experience (CX) is fundamental to the success of any business. No matter how they first find your product or service, it is the quality of interactions with your business that will determine whether a customer or client keeps coming back.

Customer retention often comes up in strategic planning conversations with clients, who know it is vital to sustained cash flow and future growth.

Designing your approach to CX

While a CX professional is your best resource for detailed expertise, business owners and management can, and should, factor CX into their own planning. The following steps will help ensure your clients or customers have outstanding interactions at every step of their journey with your business.

Understand your ideal client

Do you know who your ideal customer or client is? Do you understand their demographics, purchasing preferences, lifestyle, life stage and influences? In creating the ultimate customer experience, you must first know who you are delivering that experience for.

It is particularly important to understand the 'pain points' and barriers for your customers, but also their goals or aspirations. What issues are important to them in their lives and what problems can your product or service potentially solve for them? How can you help them achieve their goals?

Use these characteristics and considerations to build personas—fictional characters which represent the different types of clients or customers who may use your service or product. Consider the different journey that each may take with your business.

Map the journey: Put yourself in their shoes

Using these personas, put yourself in the client or customer's shoes. Map all potential interactions along their journey with your business, from awareness or first contact, through to service or product delivery, after-sales and beyond—and consider what would provide them with the best possible experience at each.

You should aim to make each of these interactions as easy as possible—adapting your process and systems to suit their preferences, needs and goals wherever possible. For example:

- Is your website easily found and navigated?
- Do you have a range of purchase methods available?
- Is your contact information easily accessed and do you provide a variety of options for communication?
- Does your team respond quickly to all enquiries?
- Is your service delivery as efficient as it can be?
- Do customers receive updates on their order/project status?

In mapping this journey, gather the views of your team to identify

what you are doing well, and what you can improve. Identify any gaps and include solutions in your plan or 'map'. For more complex assistance with client journey mapping, consider calling in the expertise of a customer experience professional.

Embrace feedback

When mapping your client journey, consider the points at which it makes sense to seek formal feedback from customers or clients. If they have had an outstanding experience, they may be very happy to share it with you.

Conversely, it is important to receive and action any negative feedback as a method of consistently improving your CX. Feedback not only provides an opportunity to refine your customer interactions in the future, but to also improve the perception of a specific customer or client—your response to their feedback can itself create a great experience.

Informal or unprompted feedback is equally, if not more valuable. It can be difficult to hear at times, but being open and receptive to all constructive feedback can lead to significant improvements and highlight any 'blind spots' you may have.

Left unspoken or unheard, the feedback of a disgruntled customer can quickly fester and taint their impression of your business. To prevent this, provide genuine opportunities for clients and customers to express their views and ensure they are acknowledged and actioned, if appropriate.

Make the most of your data

Most businesses collect and store an enormous amount of data. What information do you already collect or have access to that could be helpful in your CX planning? Sources may include internal systems, such as point of sale or accounting software, or external sources such as industry trends. There are various methods to convert your data into valuable insights for your business.

CX considerations for SME businesses

There are many issues and factors which influence CX and, while we will not attempt to cover them all here, there are some key considerations outlined below that should be factored into CX planning for SMEs.

A great culture drives great CX

When the culture of an organisation is healthy and inclusive, it permeates every aspect of the business—not least the experience of clients or customers. Consulting your team during the planning process and putting time and effort into building a great culture, which is client focused, will quickly pay CX dividends.

An engaged team that operates in a culture that is built on the values you want your customers or clients to experience can be one of your best assets.

'Good enough' is no longer enough

Loyalty to a business or brand is rarer and much harder to earn than it used to be. Where a customer once re-

Jodie Knowlton, BDO

Jodie Knowlton is a partner at BDO and has extensive experience in providing advisory, taxation and accounting services to clients in a range of industries, across all stages of a business lifecycle. In particular, she has a strong passion for supporting clients in the food and agriculture industry. Her advice is founded on strong relationships, which she builds through gaining a holistic understanding of her clients' goals and factors that impact their decision making.

CPD Questions

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1. **What is the main purpose of mapping the customer journey?**
   a) To build a one-size-fits-all experience for clients
   b) To discourage unsolicited negative feedback
   c) To identify gaps in your customer experience
   d) To improve your storage of data

2. **What does the article highlight as a benefit of seeking unprompted/informal feedback from customers?**
   a) It can highlight blind spots in your CX
   b) It is less important than formal feedback
   c) It can increase customer dissatisfaction which can taint your business's image
   d) All three

3. **What existing sources of data which businesses may hold, are highlighted as being useful in improving customer experience?**
   a) Point of sale or accounting software
   b) Industry trends
   c) Social media
   d) Both A and B

4. **Technology has enabled customers to change providers more quickly.**
   a) True b) False

5. **Setting realistic expectations is important in establishing trust, especially during times of supply chain issues and labour shortages.**
   a) True b) False

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lied on word of mouth or local proximity in choosing a product or service provider, they now have easy access to a plethora of options and, thanks to the internet, distance is less of a factor. As a result, expectations are higher than ever and it is relatively easy to change providers—which customers will quickly do if their current experience is less than exceptional.

Communication and authenticity

Customers and clients are savvier than ever—they are looking for authenticity in their interactions, and can spot 'spin' a mile away. Take this into consideration for content and conversations—use plain language, avoid jargon and approach all interactions from the client/customer perspective. Establishing trust from the very first interaction and in all those that follow is invaluable to ensuring a great experience.

Do what you say you are going to do, when you say you are going to do it. Respond to communications as quickly as possible and even if you cannot immediately assist or action, simply acknowledging a request can go a long way. Be honest about timeframes and communicate delays or changes—it is better to set realistic expectations than over-promise and fail to deliver. In a time when supply chain issues and labour shortages are heavily impacting delivery timeframes across most industries, this is more important than ever.

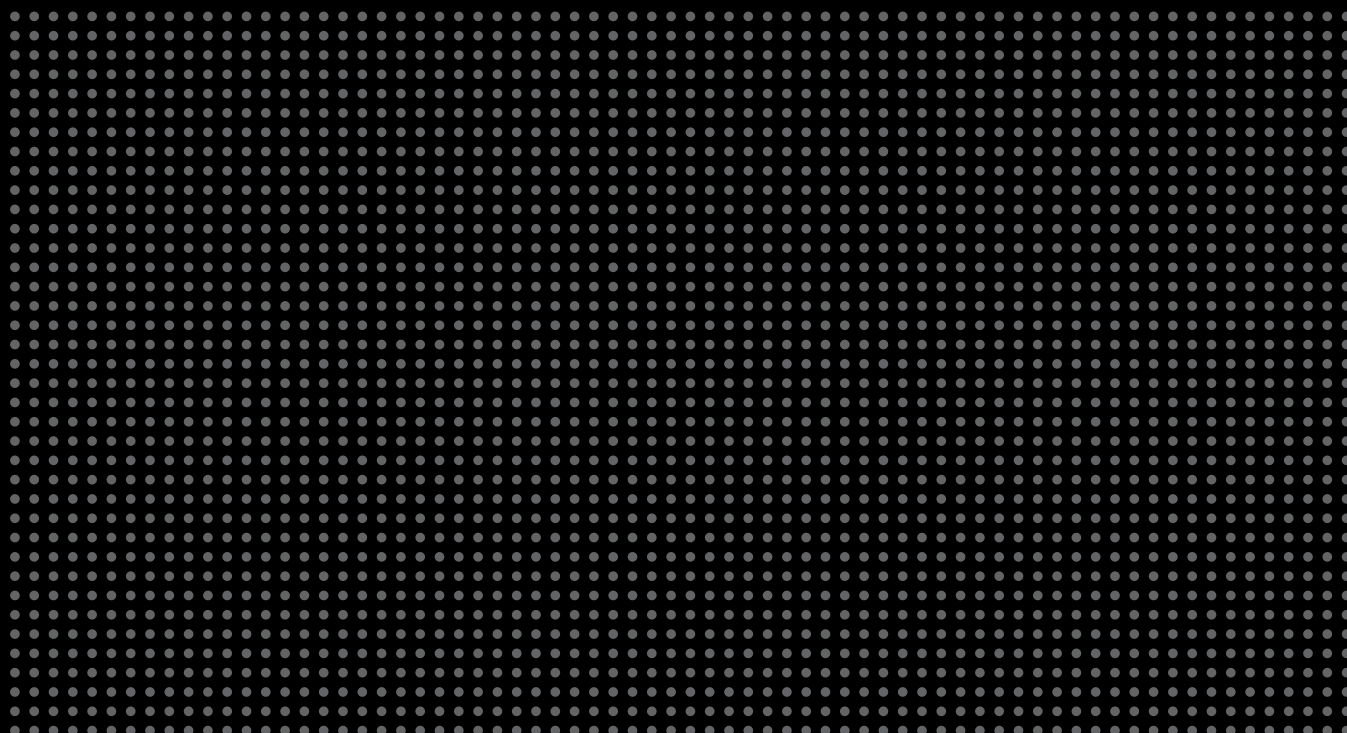
CX impacts future growth

CX goes beyond a service-based approach to include the entire experience with a business—every interaction, at every stage of the journey. The impressions and feelings about your business which result from these interactions impact future behaviour, and in turn your bottom line.

By providing the best possible experience at every stage of the journey with your business, customers and clients are more likely to stay and/or return again in future. They are also more likely to speak positively about their experience with you to others—all of which is fundamental to the future success and growth of your business. **FS**

Compliance:

48 **Defying gravity: Variations to Ongoing Fee Arrangements**
By Nadia Cassidy, Assured Support



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CPD

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Worth a read because:
The changes to Ongoing Fee Arrangements have caused confusion for advisers and licensees alike. While Info 256 remains the primary guidance, there are still questions about what has changed, when to change OFAs, and where to go from here.

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Defying gravity: Variations to Ongoing Fee Arrangements

Nadia Cassidy

There is no shortage of stories expressing confusion and bewilderment during—and after—the 2021/22 transition year when it comes to Ongoing Fee Arrangements.

Now that we have had some time to settle into the July 2022 changes, we have collated some common questions from advisers and licensees about what has changed after the transition year, when to change Ongoing Fee Arrangements, and where we go from here.

Playing by the rules

ASIC Information Sheet 256 *FAQs: Ongoing Fee Arrangements* (Info 256) remains the primary guidance to follow in the post-transition year.

Understanding the various components required in the fulfilment of Ongoing Fee Arrangements helps to reduce the confusion around what to do. Let's start by defining and explaining the key elements.

Ongoing Fee Arrangements

- Ongoing Fee Arrangements are contractual arrangements between the adviser and the client.
- Payment can be made by the client directly or via product providers as appropriate for the client's personal circumstances.
- Note that a Fixed Term Arrangement that is essentially the same every year may be substantively considered to be an Ongoing Fee Arrangement by the Australian Securities and Investments Commission (ASIC). Advisers are encouraged to talk to their licensee or seek help from a compliance professional if they are unsure whether this applies to any of their clients.

Fee Consent Forms

- Fee Consent Forms are the process by which a client accepts an Ongoing Fee Arrangement. ASIC has provided financial advisers guidance as to what information needs to be included in a Fee Consent Form in the document *Example written consent form (ongoing fees) and annotations*.
- Note that product providers have their own forms that clients need to authorise in order to deduct fees from products. Product providers may have rules over and above what is required by law, so it is important to understand the product providers' terms and potential limitations when relying upon payments from product providers to collect client fees.

Anniversary Date

- The Anniversary Date specifically refers to the anniversary of the Ongoing Fee Arrangement, and it is important to de-couple this from the date that you would normally send a client review, as these dates can be different.
- During the 2021/22 transition year, there was an opportunity to 're-set' the Anniversary Date to help accommodate the incoming Fee Disclosure Statement changes.

These transition arrangements have not been available since 1 July 2022. Accordingly, the only way to change an Anniversary date now is to:

- Cease the Ongoing Fee Arrangement entirely
- Cease any fees being taken by product providers
- Provide the client with a Fee Disclosure Statement —if a full 12-month period has elapsed—or a Fee Statement—if less than 12 months have elapsed. Info 256 gives more detailed guidance on the provision of these documents.
- Create a new Ongoing Fee Arrangement.

Annual reviews and services provided

- The provision of an advice document is still considered by ASIC to be the substantive part of an Ongoing Fee Arrangement.
- Review advice does not need to be provided on the same date as the Anniversary Date of the Ongoing Fee Arrangement—all that is required is that it is provided within the anniversary year.
- The expectation is simple; where an adviser promises to provide advice, they must deliver it.

Changing an Ongoing Fee Arrangement

Advisers and licensees frequently enquire about the following trigger events that may result in changes to Ongoing Fee Agreements.

Change of entity

- Changes of entity can be non-superannuation to superannuation, public offer superannuation to SMSF—essentially anything that fundamentally changes the ownership structure of the entities paying the fees.
- Moving from superannuation to pension phase within the same public offer fund or self-managed super fund (SMSF) entity would not constitute a change of entity as the trustees and beneficial owners both remain the same. Note that the product provider may require new adviser service fee forms to be completed.

Change of adviser

- If the providing entity is not changing, then the Ongoing Fee Agreement does not need to change. For instance, if Joe Happy of Awesome Advice Pty Ltd retires and Sarah Smile of Awesome Advice Pty Ltd is now allocated as the adviser, Awesome Advice Pty Ltd can simply update the adviser name to Sarah when the next Ongoing Fee Agreement is issued.
- It is only when the providing entity changes that the Ongoing Fee Agreement needs to be varied, or cancelled and re-done altogether. Advisers are encouraged to talk to their licensee or seek assistance from a compliance professional if in doubt.

Deceased client

- If a client dies, all fees must be switched off and the product provider informed (if relevant).
- The adviser should also inform the notifying party that they can continue to provide advice services to ensure that the deceased's investment portfolio does not decline or suffer while waiting for probate to be granted.
- If the client dies with a valid Will in place, the Executor can choose to engage the adviser for a service, in this case, the adviser will need to re-direct fees and advice to the Executor for the period that is required.
- If the client dies intestate, the adviser must wait for the Public Trustee to issue the Letters of Administration. Once issued, the adviser can re-engage using a fee agreement and advice directed to the nominated person(s).

Surviving partner

- If there is a surviving partner who is not a client, the steps outlined in the preceding paragraph can be followed.
- If the surviving partner is a client, the adviser should

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She joined Assured Support in May 2022 and before that was a practice manager and senior consultant at financial planning firm Adviser fp.

CPD Questions

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1. Which of the following events would likely prompt changes to an OFA?
a) One or more clients are allocated to an alternative adviser within the same AFS licensee
b) A client opts to transfer their personal investments into their SMSF
c) The separation or divorce of an advised client couple
d) Both 2 and 3

2. What is a Fee Consent Form used for?
a) To accept an Ongoing Fee Arrangement
b) To explain the terms and potential limitations of a product
c) To provide the client with a Fee Disclosure Statement
d) To state what needs to be included in Ongoing Fee Arrangements

3. ASIC considers the substantive part of an Ongoing Fee Arrangement to be:
a) The Anniversary Date
b) The provision of a Fee Disclosure Statement
c) The provision of an advice document
d) The provision of a Fee Statement

4. Product providers may have rules in addition to what is required by law when deducting fees from a client's product.
a) True b) False

5. The Anniversary Date of an Ongoing Fee Arrangement must be the same as the client review date.
a) True b) False

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wait for a copy of the Will, and confirmation from the solicitor before re-engaging with the surviving partner—if they are also the Executor/ Administrator.

Incapacity

- If the loss of capacity occurred incrementally, the affected client may have appointed persons to represent their interests. However, an adviser should not accept a person's appointment without reviewing a certified copy of the Power of Attorney. A Power of Attorney (POA) is a legal document that confirms the principal's appointment of another person (the attorney) to make decisions about the principal's money, arrangements, property and assets. A General Power of Attorney is useful for short-term appointments but only an Enduring Power of Attorney, useful for long-term appointments, survives the principal's loss of capacity.
- If the client has lost capacity before they executed a POA, then the adviser or the principal's legal representatives should apply to the courts for orders or the appointment of a Guardian or Financial Manager. Unless, or until that occurs, the adviser should only maintain their arrangements. Assured Support's information sheet *Capacity and care* provides further information.

Divorce

- Once an adviser becomes aware of a separation, they must decide on the new advice relationship and inform the clients involved in the proposal. Regardless of the decision as to which client they will continue to work with, they must inform both clients and terminate, or amend, any existing fee agreements and consents.
- Where a couple is separating and the adviser needs to terminate fee agreement(s), and has not provided any services or part thereof, the adviser should use their professional judgement to assess whether any fees should be refunded to the client. Each scenario is unique, and it is advisable to check your position with the licensee or compliance consultant.

The way forward

It is important to remember that, while there are prescriptive rules around timing and process, the substantive content of an Ongoing Fee Arrangement is a contract between the adviser and the client. Each client situation is unique, and will require care and consideration depending on the client's needs and the relationships and entities involved.

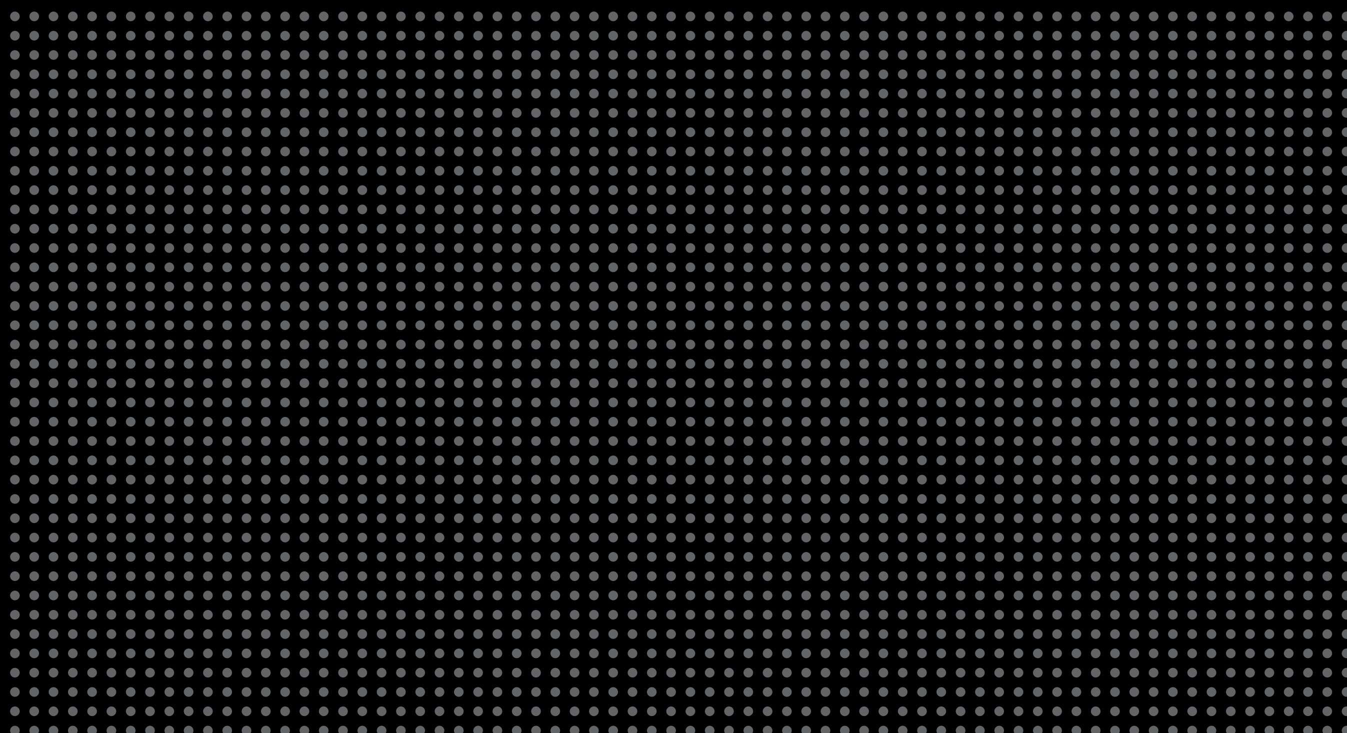
When they are well-prepared, Ongoing Fee Arrangements are not just a legal requirement— they can also be a powerful tool to clearly set expectations, promote trust and provide a framework for resolution if something changes or goes wrong with a client relationship.

Assured Support *was built by industry insiders to provide advisers and licensees with innovative, un-conflicted and effective compliance support. We've seen lives transformed by great advice and others profoundly affected by poor advice. We've seen sustainable businesses, and competent professionals, destroyed by complexity, uncertainty and ignorance.*

We provide strategic advice and compliance support to advisers, brokers, technologists and Independent and Institutional licensees. FS

Ethics & Governance:

52 Understanding ethical theory: Enhancing decision-making and building trust in professional practice
By Chris MacDonald, Toronto Metropolitan University & Alexei Marcoux, Creighton University



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Worth a read because:
Business ethics is the examination of how people and organisations should behave in the world of commerce. By studying ethical theory, professionals can gain valuable insights that enable them to approach complex issues in a manner that fosters sound decision making and builds trust.

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Understanding ethical theory

Enhancing decision-making and building trust in professional practice

Chris MacDonald & Alexei Marcoux

Business ethics is the study of how ethical principles and moral values apply to the behaviour and decision-making of businesses and organisations and the people who work in them. An understanding of business ethics can help companies and employees make ethical decisions and behave in a responsible and accountable manner, both to their stakeholders and to society as a whole. Financial advisers are required to maintain a high standard of ethics in their professional practice. The study of ethical theory can help financial advisers to frame issues in a way that improves decision-making, to build trust with clients, and to comply with regulatory requirements. The following discussion of ethical theories from the *Concise Encyclopedia of Business Ethics* provides a framework to identify potential ethical dilemmas that may arise, leading to greater success and sustainability in professional practice.

Business ethics

Business ethics can be defined as the critical, structured examination of how people and institutions should behave in the world of commerce. It is a *critical* discipline in that it is interested in determining what ethical standards are best and most well-justified, rather than in cataloguing the views that people actually happen to have. It is a *structured* pursuit in that it involves providing reasoned arguments, rather than simply stating opinions or feelings, about particular issues. In particular, it involves examining appropriate constraints on the pursuit of self-interest, or for companies of profit, when the actions of individuals or companies affect others.

In practical settings, business ethics may be thought of, rather than as a topic of intellectual inquiry, as a name for proper behaviour in the world of commerce. In this sense, we might say informally, for example, that a company has 'good business ethics,' or that 'business ethics requires that a company do such-and-such'.

In many contexts, terms such as Corporate Social Responsibility (CSR), corporate citizenship, or even sustainability, may be used equivalently to 'business ethics'. Whether these are reasonably synonymous is a matter of controversy.

Overview of ethical theory

Ethical theories are attempts to provide a clear, unified account of what our ethical obligations are. They are attempts, in other words, to tell a single 'story' about what we are obligated to do, without referring. It is common in discussions of business ethics to appeal to one or more ethical theories in an attempt to clarify what it is right or wrong to do in particular situations. Some of the philosophical ethical theories commonly appealed to include:

- **Utilitarianism**, which says that the right thing to do in any situ-

ation is whatever will 'do the most good'—that is, produce the best outcomes—taking into consideration the interests of all concerned parties.

- **Kantianism**, or deontology more generally, which says that—as a matter of respect—there are certain absolute, or nearly absolute, rules that must be followed, for example, the rule that we must respect people's privacy, or respect other people's right to make decisions about their own lives.
- **Social contract theory**, or 'contractarianism, which says that, in order to figure out what ethical rules to follow, we ought to imagine what rules rational beings would agree to in an 'ideal' decision-making context.
- **Virtue theory**, which says that we ought to focus not on what rules to follow, but on what kinds of people or organisations, we want to be, and what kinds of ethical examples we ought to follow.
- **Feminist ethics**, which is a complex set of interrelated perspectives that emphasise interpersonal concerns such as caring, interdependence, and the ethical requirements of particular relationships. Such concerns are traditionally identified with women, but feminist ethics should not be thought of as a theory only *for* women.

In some cases, scholars attempt to use a single ethical theory to shed light on a topic or range of topics—a good example would be Norman Bowie's book, *Business Ethics: A Kantian Perspective*. A more typical approach—one taken by many business ethics textbooks today—is to attempt to use insights from various ethical theories to shed light on different aspects of a particular problem. Such an approach might involve, for example, asking which decision in a particular situation would result in the best consequences—a utilitarian consideration—but then asking whether acting that way would violate any Kantian rules or whether a person acting that way would be exhibiting the kinds of virtues that a good person would exhibit.

The role of ethical theory in business ethics is somewhat controversial, in part because business ethics is seen as a branch of 'applied ethics'. Some regard applied ethics—and hence business ethics, along with bioethics, environmental ethics, etc.—as a field that takes 'standard' ethical theories and *applies* them to practical problems. Such an approach might involve asking, for example, 'What would Kant say about privacy in the workplace?' Others regard applied ethics as an attempt to gain *theoretical insight*—or to 'build' better ethical theories—by testing them against real-life problems.

Utilitarianism

Utilitarianism is an ethical theory that says that the right thing to do in any situation is whatever will 'do the most good'—that is, whatever will produce the best outcomes—taking into consideration the interests of all concerned parties.

Utilitarianism is part of a larger family of consequentialist ethical theories—theories according to which the rightness or wrongness of actions is determined by their tendency to produce good or bad consequences or outcomes. Utilitarianism says in particular that the right action in any situation is the one that will produce the best

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The quote

In business contexts, utilitarianism implies an obligation for businesses to do what they can to act in a way that maximises happiness and minimises suffering. So, utilitarianism provides a basis for criticising business behaviours that cause harm to anyone at all.

outcomes, as measured by impact on *everyone* involved. The latter part is important—utilitarians believe that everyone's interests count.

Historically, utilitarian philosophers played an important role in many struggles that are today recognised as ethically significant. Utilitarians argued, for instance, in favour of rights for women and for people of various races. All people—all happiness and all misery—count equally, in the eyes of utilitarians. This was a radical view, in an era in which only white, property-owning males were really thought of as being entitled to a full range of rights.

In business contexts, utilitarianism implies an obligation for businesses to do what they can to act in a way that maximises happiness and minimises suffering. So, utilitarianism provides a basis for criticising business behaviours that cause harm to anyone at all.

A hard-core utilitarian would say that outcomes are *all* that matter. If option A will create more happiness—or less misery—overall than option B, then option A is ethically correct. Others who think that utilitarian reasons matter, but are incomplete, would say that there is a *good reason* in favour of option A, but that other considerations—such as human rights— matter too and might sway our overall ethical judgement on the matter.

The utilitarian perspective is perhaps best understood when examined in contrast to rights-based perspectives. Consider the question of child labour. A rights-based perspective might say that it is wrong to hire children to do difficult labour, such as working in a factory or in a cotton field. A utilitarian perspective would focus on outcomes—if more good (more happiness) is created overall by giving a child a job, then it is right to do so, even if we agree that in principle it would be better if the child did not *need* the job.

Kantianism

Kantianism is a key version of the broader ethical perspective known as deontology. According to deontology, there are certain absolute, or nearly absolute, ethical

rules that must be followed, for example, the rule that we must respect people's privacy, and the rule that says we must respect other people's right to make decisions about their own lives. This implies that certain actions, perhaps including lying and killing people, are absolutely prohibited.

In the modern day, deontology manifests itself in a focus on human rights—roughly, the idea that there are certain things that must never be done to human beings, as such. Such rights are typically thought of as being *universal*, applying to all persons everywhere, regardless of the political or legal system under which they live.

The details of Kantianism, the particular version of deontology put forward by German philosopher Immanuel Kant (1724-1804), are complicated. But the core idea is that human beings are not mere objects—they are persons who are worthy of respect, and who must be treated as such. In particular, other persons must not be treated as mere tools in the pursuit of one's own goals. Kantianism is the most commonly-cited version of deontology, and many people use the term 'Kantianism' to refer to deontology generally.

In business contexts, Kantianism implies an obligation for businesses, and businesspeople, to treat all persons with respect. In particular, respectful treatment is considered obligatory *regardless of what one's goals and mission are*. A desire to achieve a particular outcome, such as to make a profit, cannot override the obligation to treat people fairly and with respect. Kantianism even insists that the desire to achieve outcomes that you think are *ethically good* cannot justify actions that, incidentally, fail to treat people with respect. For instance, a Kantian would likely say that it is wrong to lie to a customer to get them to buy a product, even if you sincerely believe that the product is one that will bring them great joy.

The Kantian perspective is perhaps best understood when examined in contrast to utilitarianism, which says roughly that all that matters ethically is the good and bad consequences produced by a particular action. A hard-core Kantian would perhaps say that consequences almost *never* matter, and should never be counted in deciding what to do. Others think that Kantian rules, grounded in respect for persons, are important, but are incomplete. Such a view might suggest that while the pursuit of good outcomes is generally ethically good, this needs to be *balanced* against the need to respect persons, and that certain behaviours—such as lying to people or manipulating them—are seldom going to be justifiable simply in pursuit of what the individual sees as a good outcome.

Virtue theory

Virtue theory is an ethical framework that says that we ought to focus not on what rules to follow, but on what kinds of people or organisations we should be, and what kinds of ethical exemplars we ought to imitate. In asking about the ethics of a particular behaviour, a virtue theorist or 'virtue ethicist' would ask whether someone engaging in that behaviour is manifesting the appropriate virtues or character traits. Is that, for example, the kind of thing a brave or generous or compassionate person would do?

Given the focus of virtue theory on character, it becomes important to figure out what kinds of people we ought to be. There are at least two routes to figuring out what kinds of people we ought to be. One is to ask what characteristics a person needs to have in order to flourish—that is, to thrive and live a good life as part of a healthy community. The other is to think of examples—when you picture a *good person*, what kind of person do you picture? This might involve thinking about a real person in your own life whom you admire—a favourite teacher or mentor perhaps—or thinking about what an imaginary ideal person would be like. Virtue theory suggests that once you can imagine what a good person is like, you should behave in any situation as you think such a person would behave.

The term 'virtue' is not exclusively a technical term, but it is also not used much in everyday language. Virtues are basically positive character traits, such as honesty and generosity. The opposite of a virtue is a *vice*. Vices are negative character traits like dishonesty and greed. Virtue theory has its historical roots in the work of the ancient Greek philosopher, Aristotle, who argued that each virtue is a mean or 'middle-point' between two vices, one of defect and one of excess. So courage, for example, can be understood as a middle-point between cowardice (the defect or lack), on one hand, and rashness (the excess) on the other.

Virtue theorists tend also to be interested in the process by which individuals acquire various virtues. It is often pointed out that virtues, and vices, are habits, and that habits are acquired by repetition—each time you tell the truth in a difficult situation, it makes it

CPD Questions

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1. What is the main goal of ethical theories?
a) To catalogue the views that people actually happen to have
b) To provide a forum for opinions or feelings about particular issues
c) To provide a clear, unified account of what our ethical obligations are
d) To examine ethical dilemmas by way of investigating specific examples

2. Which ethical theory emphasises the importance of considering the interests of all concerned parties?
a) Utilitarianism b) Kantianism
c) Social contract theory d) Virtue theory

3. What is the main focus of virtue theory?
a) Following certain absolute rules
b) Considering the interests of all concerned parties
c) Focusing on what kinds of people or organisations we want to be
d) Imagining what rules rational beings would agree to in an ideal decision-making context

4. Kantianism implies an obligation for businesses, and businesspeople, to treat all persons with respect.
a) True b) False

5. Utilitarian ethics is concerned with caring, interdependence, and the ethical requirements of particular relationships.
a) True b) False

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slightly easier to do so the next time. Over time, through repetition, we acquire the habit of truth-telling. This gives special significance to individual actions. The problem with telling a lie is not—as a utilitarian would say—the damage that it does, nor—as a Kantian would say—the fact that lying amounts to disrespecting someone, but rather that in telling a lie we are likely acting in a way that we do not think is worthy of imitation, and we are contributing to the process of building ourselves into liars.

Virtue theory is especially relevant to business in that modern businesses put significant emphasis on mentorship and on leadership. It is relatively easy for senior business leaders to see the significance of setting a good example for their followers.

Conclusion

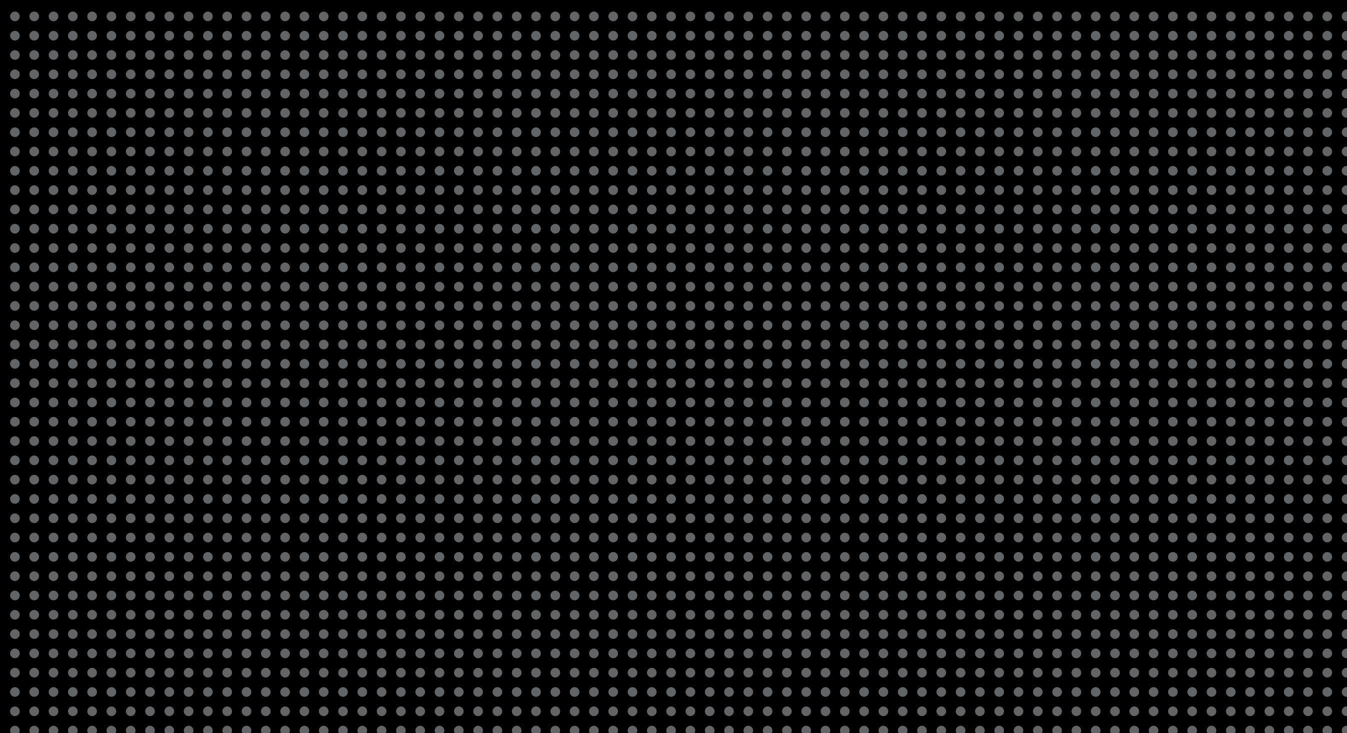
Business ethics is the critical and structured examination of how people and institutions should behave in the world of commerce. It is a discipline that helps companies make ethical decisions, behave responsibly, and comply with regulatory requirements.

Gaining an understanding of various ethical theories can help financial advisers by shedding light on different aspects of a particular problem in order to make better decisions and maintain trust with their clients. **FS**

Chris MacDonald and Alexei Marcoux founded the Journal Review Foundation of the Americas, which publishes the Concise Encyclopedia of Business Ethics and the Business Ethics Journal Review, both of which are free resources available to students, scholars, and professionals and can be accessed at conciseencyclopedia.org

Insurance:

58 Insurance in a time of (cyber) war
By Allens Lawyers



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Worth a read because:
Lloyd's Market Association (LMA) sets standard exclusions for cyber insurance policies to exclude losses from state-backed cyberattacks that impair a state's function or security, and which are likely to influence other insurers to follow suit.

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Insurance in a time of cyber war

The cyber insurance market reckons with the state malware threat

Jonathan Light, Valeska Bloch, Joshua Anderson, Robert Marsh & Emiliana Gallego

The market-standard position has long been for loss or damage arising from war to be excluded from cover under most forms of insurance. Cyber liability insurance was frequently an exception.

Broad war exclusions are now, however, increasingly found in cyber liability insurance policies. In light of the position recently adopted by the Lloyd's Market Association (LMA), such exclusions are likely to become market standard.

This is important for insureds because the risk of cyber related losses arising from war—particularly in the current geopolitical environment—is significant.

A number of factors have combined to drive this trend:

- First, cyber operations are now a typical aspect of conflict between nation states—both as part of traditional war and also 'grey zone' warfare.
- Second, absent an exclusion, cyber operations, especially when backed by a nation state, could cause portfolio-wide losses that risk the capital adequacy of insurers. High-profile, state-backed cyberattacks such as NotPetya revealed this risk.
- Third, there is already conflict between nation states in Europe, and a genuine risk in the current geopolitical environment of further conflict.

Cyber threats from nation-state actors

Cyber operations are now a standard part of the offensive (and defensive) capabilities of a modern defence force. Governmental authorities across the Five Eyes alliance have also warned that state-backed attacks may occur outside of a 'traditional' war involving physical force.

For example:

- Five Eyes Cybersecurity authorities cautioned in an April Joint Advisory that Russia's invasion of Ukraine could expose organisations, particularly those involved with critical infrastructure, to an increased risk of malicious cyber activity—including destructive malware, ransomware, denial of service (DDoS) attacks and cyber espionage.[1]
- The US Cyber & Infrastructure Security Agency has also warned

that state-sponsored cyber actors from the People's Republic of China 'continue to exploit' vulnerabilities in order to establish "a broad network of compromised infrastructure".[2]

Australian businesses could be affected in a number of ways:

Direct or targeted attacks

Organisations could be targeted directly by:

- a foreign state—although this would seem unlikely absent an outbreak of war in which Australia was potentially involved
- an agent sponsored or directed by a foreign state—akin to a 'mercenary'
- a vigilante acting in the interests of a foreign state—who may also be state-sanctioned in some way, or
- criminal groups located in a foreign state—who are increasingly organised and well-funded, and may act opportunistically and have any number of motivations, including financial.

Those Australian businesses most at risk include businesses operating critical infrastructure or essential services, or perceived to have a particular association with the state involved in the conflict.

Spill-over attacks

Australian organisations may also feel the effects of an attack by one of the abovementioned parties in an indirect way—for example, as a consequence of an attack on an overseas network or supplier.

Insurers respond with updated war, cyber war and cyber operations exclusions

Insurers are increasingly wary of the substantial liabilities that may arise from these types of cyberattacks. Given the likelihood that numerous insureds will be affected at any one time, and the benefit of there being a 'standard insurer position' on exclusions, the LMA has published prescribed exclusions for state-backed cyberattacks in standalone cyberattack policies.

At minimum, to meet the LMA requirements, a policy must:

a. exclude losses arising from a war (whether declared or not), where the policy does not have a separate war exclusion
b. exclude losses arising from state-backed cyberattacks that:
   - significantly impair the ability of a state to function, or
   - significantly impair the security capabilities of a state
c. clarify whether the cover excludes affected computer systems that are located outside a state that is affected by paragraphs (a) or (b) above,
d. set out a robust basis by which the parties agree on how any state-backed cyberattack will be attributed to one or more states, and
e. clearly define all key terms.

These requirements took effect from March 2023, at policy inception or renewal. The LMA has also released a set of four new model war, cyber war, and cyber operations exclusions, which are said to meet each of the abovementioned objectives.

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Prior to this announcement, Lloyd's agents were already including exclusions for losses arising both from war and non-war, state-backed cyberattacks, with varying degrees of robustness in their wording. However, it will become the market position going forward.

The LMA's announcement will not directly bind other insurers underwriting business in Australia. However, the LMA's guidance is likely to be highly influential. In large programs, it is also highly likely that Lloyds market insurers will participate in excess layers. In the context of the increasing cyber-threat environment posed by nation states, we expect other insurers may follow suit and move to adopt similar-to-the-model clauses.

Navigating the LMA model clauses

The operation of these new exclusions is yet to be tested. We set out below two key initial observations on the model clauses.

(1) New terms = new confusion

Key terms and concepts are undefined, risking uncertainty and disputes.

For example, Lloyd's Market Association Bulletin 5566, *War, Cyber War and Limited Cyber Operations Exclusion No. 3,* (LMA5566) excludes from coverage, among other things, a cyber operation that has a major detrimental impact on: (a) the functioning of a state due to the direct or indirect effect of the cyber operation on the availability, integrity or delivery of an essential service in that state; and/or (b) the security or defence of a state.

The expression 'major detrimental impact' is not defined, but appears to have been drawn from the UK Centre for Protection of National Infrastructure's Guidance. In the absence of the clarifying language included in the Guidance, it is unclear when the threshold of 'major detrimental impact' will be reached. For example, is it intended to be triggered only in the event of harm to human life, rather than just disruption to daily life? If disruption, at what point is it major?

According to LMA 5566, essential services would capture (without limitation) financial institutions and associated financial market infrastructure, health services or utility services—indicating the conceivable breadth of this exclusion. Conceivably, this exclusion could be triggered if your business is in one of these industries and you are the victim of a significant cyberattack. Without clarification, your insurance coverage could be rendered obsolete.

(2) A 'robust' basis for attribution?

Insurers bear the onus of establishing that an exclusion applies. To rely on a war exclusion, a causal connection between the relevant war, or the actions of a nation state and the loss depending on the exact wording of the exclusion, must be established.

The model clauses generally provide that:

1. In determining attribution, the primary (but not exclusive) factor is whether the government of the affected state attributes the cyber operation to another state or those acting on its behalf.
2. Where a state does not attribute the attack (or is unreasonably delayed in doing so), the insurer must prove attribution by reference to other available evidence.

In addition, insurers may rely on an 'objectively reasonable inference' as to attribution and refuse to pay out claims in reliance on this inference. Taken together, this approach raises a number of potential challenges from the perspective of policyholders, including the following:

- In the absence of a clear statement of attribution by an affected government, which rarely occurs in practice, and generally only where national security is threatened, there is significant room for disputes to arise between insurers and policyholders on the question of attribution.
- There is no clear timeframe for attributing an attack by other evidence, nor any parameters on what that evidence may be. Although it is in the insurer's interest to establish attribution, it is not clear what a reasonable period may be to resolve this question, nor how disputes between the parties may be resolved.
- Difficulties in establishing attribution (as set out above) may lead to a delay or refusal by the insurer to indemnify your business for losses arising from a ransomware attack. The model clauses potentially permit insurers to rely on an inference of nation-state involvement for a protracted period of time, and whether an attack was 'under the direction or control of a nation state' may not be clear.

Without clarification of the model clause wordings, there may be significant delays in your insurer confirming indemnity in the event of a cyber-attack, with flow on consequences for your business' cyber response, including any ransom payment decision.

In practice, it can be difficult to attribute a malware attack to a particular actor, especially a nation state, or to determine its motivations. Doing so will generally depend on the public statements made by government agencies of nation states, such as the statement made by the US in May of this year attributing certain cyberattacks on Ukraine to the Russian State.[3] For example, a state may retain private contractors (akin to mercenaries) to carry out a cyberattack in furtherance of its objectives, or it may sanction or encourage private actors to take the same measures. While the former scenario is reasonably straightforward, in the latter, it is far from clear that the relevant conduct should be characterised as by or on behalf of the nation state.

Key takeaways for your business

1. **Engage with your broker ahead of policy renewal to understand what changes may be on the horizon**. While little may be done to resist the inclusion of war exclusions in cyber insurance products, it is still important to consider the proposed wording carefully and scrutinise your insurer's position.
2. **Consider your risk exposure to a sophisticated or state-backed cyberattack**. Relevant factors include whether your business may be perceived to be aligned with either side of current global conflicts or regional disputes, or whether you hold sensitive data, such as health information, that may attract threat actors. You should keep track of any Australian Cyber Security Centre (ACSC) warnings that may apply to you.
3. **Scenario test with your broker any new exclusions against your risk exposure**. For example, consider whether an attack on your business may have a 'major detrimental impact' on the functioning of essential services in Australia, and if so, whether this may jeopardise your coverage position.
4. **Build hypothetical scenarios into your cyber response planning**. Ensure you understand how your business would respond if it were the victim of a cyberattack by a nation state, state-backed actor, vigilante or other cybercriminal.
5. **Give thought to how any delays in attribution might fit within your broader incident response**. Determining attribution can be a fraught and protracted process. You should consider

whether you are prepared to incur any expenses without prior approval from your insurer in the event they delay or withhold approval if attribution is unclear. Build these considerations into your cyber incident response plans and playbooks.

Case Study: NotPetya Ransomware Campaign

Half a decade after NotPetya, affected companies continue to grapple with its aftermath and the unresolved question:

Who should foot the bill for the costs arising from the Russian malware attack that took down networks across the globe and caused billions of dollars in damage?

While minimal legal guidance has emerged from the series of legal disputes that have arisen on this question as shown in Table 1, NotPetya continues to drive significant change in a hardening cyber insurance market. **FS**

Table 1. The NotPetya cyber attack

Date	Event
July 2017	Malicious malware concealed in M.E.Doc software update impacts 65 countries and around 49,000 systems worldwide.
February 2018[4]	UK, US[5] and Australian[6] governments attribute the attack to the Russian State.
January 2022	A New Jersey Court finds in favour of insured company Merck & Co that an Ace American property damage insurance policy only excluded a physical act of warfare (armed conflict) and not a malware hack.[7]
August 2022	LMA releases its recent market bulletins with guidance on cyberattack coverage and model clauses for introduction by March 2023.
November 2022	Mondalez International settles a 2018 lawsuit against its insurer Zurich American over more than $100 million in claims related to the NotPetya cyberattacks, with no clear legal precedent as a re-sult.[8]

Source: Allens

1. *Australian Cyber Security Centre, CISA, FBI, NSA, and international partners issue advisory on demonstrated threats and capabilities of Russian state-sponsored and cybercriminal actors (22 April 2022) (cyber.gov.au/acsc/view-all-content/news/cisa-fbi-nsa-and-international-partners-issue-advisory-demonstrated-threats-and-capabilities-russian-state-sponsored-and-cyber-criminal-actors) ; Australian Cyber Security Centre, Russian State-Sponsored and Criminal Cyber Threats to Critical Infrastructure (21 April 2022) (cyber.gov.au/acsc/view-all-content/advisories/russian-state-sponsored-and-criminal-cyber-threats-critical-infrastructure)*
2. *CISA, Alert (AA22-158A) People's Republic of China State-Sponsored Cyber Actors Exploit Network Providers and Devices (10 June 2022) (cisa.gov/uscert/ncas/alerts/aa22-158a). See also CISA, Alert (AA21-201A) Chinese Gas Pipeline Intrusion Campaign, 2011 to 2013 (21 July 2021) (cisa.gov/uscert/ncas/alerts/aa21-201a).*
3. *US Department of State, Attribution of Russia's Malicious Cyber Activity Against Ukraine, (Press Statement, 10 May 2022) (state.gov/attribution-of-russias-malicious-cyber-activity-against-ukraine/).*
4. *National Cyber Security Centre, "Russian military 'almost certainly' responsible for destructive 2017 cyber attack" (News) (ncsc.gov.uk/news/russian-military-almost-certainly-responsible-destructive-2017-cyber-attack).*
5. *The White House, Statement from the Press Secretary, (15 February 2018) (trumpwhitehouse.archives.gov/briefings-statements/statement-press-secretary-25/).*
6. *Minister for Law Enforcement and Cyber Security Hon. Angus Taylor MP, Australian Government attribution of the 'NotPetya' cyber incident to Russia (16 February 2018) (dfat.gov.au/sites/default/files/australia-attributes-notpetya-malware-to-russia.pdf).*
7. *Merck & Co. Inc. vs. Ace American Insurance Co. et al (NJ Sup Ct, L-002682-18, 13 January 2022).*
8. *Christopher Burgess, Mondelez and Zurich's NotPetya cyber-attack insurance settlement leaves behind no legal precedent, (4 November 2022) (csoonline.com/article/3678970/mondelez-and-zurich-s-notpetya-cyber-attack-insurance-settlement-leaves-behind-no-legal-precedent.html).*

CPD Questions

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1. What is the main reason for the increased adoption of broad war exclusions in cyber liability insurance policies?

a) A decrease in the number of cyberattacks from nation-state actors
b) The inability of insurers to adequately cover losses arising from cyberattacks backed by nation states
c) The lack of conflict between nation states in the current geopolitical environment
d) The absence of cyber operations in modern warfare

2. Lloyd's Market Association has:

a) excluded financial market infrastructure as an essential service in relation to cyberattacks
b) mandated that all cyber liability insurance policies include war exclusions
c) released a set of model war and cyber war exclusions which are likely to become the market standard
d) advised that cyber liability insurance policies should cover losses arising from war

3. What are some potential forms of cyberattacks that may occur as a result of state-backed activity?

a) DDoS b) Cyber espionage
c) Ransomware d) All three

4. The author observes that a problem with the LMA model clauses is that terms are not sufficiently defined.

a) True b) False

5. The timeframe for attributing a cyberattack by other evidence is clearly defined in the LMA model clauses.

a) True b) False

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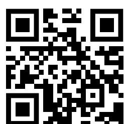

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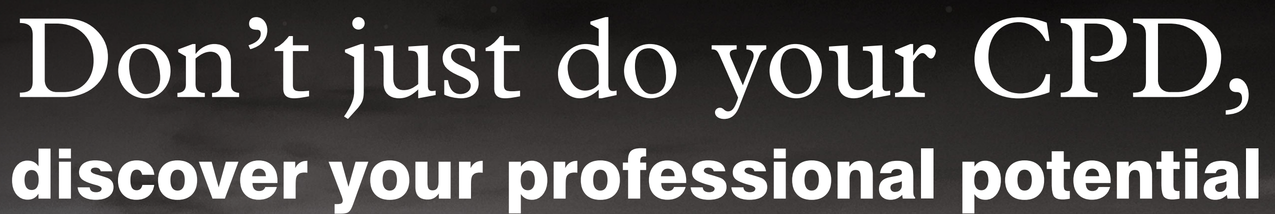

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