



webinar



The Adviser as Nostradamus

with David Glen & Scott Hoger
Tuesday 21 June | 11:00am-12:00pm



TAL

Today's webinar

- One hour of CPD available, the AFA will send details within the next week.
- As a webinar attendee you will remain on 'mute' throughout the session.
- Questions will be answered at the end of the presentation. Please use the Zoom Q&A function (not the chat function).



The Adviser as Nostradamus

— Presented by
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ADVICE SKILLS AND TRAINING

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Learning Outcomes

At the conclusion of this webinar, participants should:

- Understand the scope and scale of Standard 6 in the financial adviser Code of Ethics
- Interpret how scoped/scaled advice should be considered in light of Standard 6
- Determine what might be considered relevant for 'broad effects' and 'likely circumstances'
- Provide practical tips including qualitative question techniques that will assist with Standard 6 compliance

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Introduction

Introduction

A broad standard

- You must take into account the broad effects arising from the client acting on your advice and actively consider the client's broader, long-term interests and likely circumstances
- The application of this Standard is reliant on the appropriate scoping of the relevant subject matter that is in the best interests of the client
- The adviser does not need to be Nostradamus, but, must consider reasonably foreseeable events from an informed position



The intent of Standard 6 is to ensure that, before giving advice, advisers have determined whether or not the advice is consistent with the client's broader long term interests and likely circumstances

Focus areas

This Standard expressly requires financial advisers to actively consider the broader, long-term interests and likely circumstances of the client

An informed position on the clients relevant circumstances

Appropriate scaling of advice

Consideration of the broader long-term interests and likely future circumstances within the scope of the advice provided



This Standard reflects the existing best interests obligation under section 961B of the Corporations Act

An informed position

Client circumstances

Financial advisers have an ethical duty to look more widely at what the client's interests are

- To determine the appropriate scope of advice, financial advisers must have an understanding of what the clients goals and objectives might be
- This may include subject matter not explicitly sought by the client and if necessary, help them work out what their financial goals and objectives might be
- It is often the responsibility of the financial adviser to uncover a need the client didn't know they had
- Determining a client's goals and objectives requires complete and accurate information

Financial advisers are not relieved of this ethical duty merely because the client does not provide enough information, even when asked

Sufficient rather than comprehensive



The Fact Find must contain sufficient information on a broad range of subject matter



Asking qualitative questions can help narrow down the subject matter relevant to the client



You are not required to complete a holistic Fact Find for scaled advice



You can only scope advice after you have gathered sufficient information to be in an informed position

Appropriate scaling of advice



Scaled advice must be in the client's best interests

Both the Code of Ethics and Corporations Law allow the provision of scaled or limited advice

- Limited scope engagement and/or scaled advice can be a highly effective tool in delivering appropriate advice
- Financial advisers must make an independent, professional assessment as to whether scoping the advice is in the best interests of the client
- Scoping requires the financial adviser to consider all relevant subject matter uncovered in the advice engagement
- Relevant subject matter is determined by the advice sought by the client (whether explicit or implicit)
- Explicit subject matter is where the subject matter is expressly discussed
- Implicit subject matter is subject matter relevant to the client circumstances but not expressly stated (e.g., estate planning, taxation considerations)
- Determining relevant subject matter is challenging, and relies on what a reasonable adviser would consider relevant

Example

Consider Michael, a new client referred by a third party. Michael has just bought his first home in Perth and is considering Life Insurance. Michael has average financial literacy and like many Australians, feels ten foot tall and bulletproof when it comes to his health. He sees the need for cover but doesn't value the product. He has heard from a colleague of his that you can simply run cover through superannuation, and therefore not have to pay for the premium himself. He tells you 'my objective is life insurance cover without having to pay it directly'. What is the explicit subject matter sought by Michael?

What could the implicit subject matter be?

Implicit subject matter

Estate Planning

Insurance and superannuation advice are intrinsically linked to estate planning

Taxation Advice

Both the funding of the premium and the payment of a claim has a taxation outcome

Cash flow

The funding of an insurance premium requires a careful analysis of cash flow

Retirement Savings

Paying the premiums via the clients accumulated balance will erode the clients' retirement savings

Scaled advice process map



Not all financial advisers are holistic, and not all clients seek holistic advice, and that is perfectly appropriate

An ethical consideration

If the client requires advice in areas outside of the financial adviser's speciality (driven by authority, competence, business structure etc.), they will need to determine whether or not they can provide advice that is in the client's best interests

- This can be a challenge that requires the adviser using an ethical lens
- Each client circumstance will be unique and a similar set of circumstances may end with different ethical decision
- It is important to get scoping right as Standard 6 requires that you consider the broader long-term interests and likely future circumstances within the scope of the advice provided



Consider a client with poor cash flow, minimal superannuation that has an immediate need for insurance. Should superannuation and cash flow be scoped out in this instance?

Broader long-term interests and likely future circumstances

Long-term interests and likely future circumstances

Determining what might be considered relevant for 'broad effects' and 'likely circumstances'

- The October 2020 update of Financial Planners and Advisers Code of Ethics 2019 Guide confirmed that financial advisers must consider the long-term interests and likely future circumstances within the scope of the advice provided
- It would be impractical for advisers to consider Standard 6 in subject matter not considered in the advice

Approach to Standard 6 compliance

Be Standard 6 aware throughout the advice process

- The Standard does not require you to provide advice to anyone but the client
- Important to establish the identity of the client
- Important in complex family structures where there are corporate entities, partnerships and trust
- Establish the identity of all associated entities
- Consider the impact of your advice on all associated entities
- Determine whether or not the impact should be included in the SOA
- Err on the side of conservatism and include any borderline situations

Standard 6 in practice

Time

What is the impact on the client in the short, medium and long-term

Impact on client and their family

You need to act in the best interests of the client, you need to consider the impact of your advice on the clients family

Premium/cost

What is the premium/cost of the clients recommendation in the short, medium and long term

Other considerations

- Estate planning
- Superannuation
- Taxation

Example - Time

Client aged 35 has a high risk appetite and is cost conscious. The adviser is considering recommending an income protection contract with a five year benefit period.

The client will be living with the consequences of the advice until withdrawal from the work force, generally at age 65.

Short-term

Client is covered up to 5 years of claim.

Medium-term

Client is exposed. Consider how the client could self-insure this risk – self insurance is not a poor outcome but consequences must be considered.

Long-term

Client is exposed should a long-term claim materialise. Exposure is appropriate for the client's risk profile. Consequences must be considered

Example - Impact

Client aged 55 has a life insurance policy in superannuation. He has no spouse and two economically independent adult children. Client is estranged from Child 1 and has executed a binding death benefit nomination in favour of Child 2

The client's family will be living with the consequences of the advice. Post death of the Client there is no opportunity to change the insurance distribution.

Child 1

This child is excluded from the nomination and could contest the deceased estate.

Child 2

This child will receive a 100% of the benefit. Does this child have financial responsibility?

Long-term

There are potential risks to the deceased estate. Move to ensuring proper disclosure and management of this risk by recommending that the Client seek appropriate legal advice.

Example – Premium/cost

Client aged 40 has poor cash flow, but has an immediate insurance need. The adviser recommends a Life/TPD policy of \$1 million in super funded from the client's \$100,000 balance in his superannuation fund.

The client will be living with the consequences of superannuation balance erosion on withdrawal from the work force. This erosion could impact quality of life in retirement.

Short-term

No cash flow strain through using the client's balance in superannuation as a finance mechanism with immediate need covered.

Medium-term

Erosion of member balance. Erosion = premiums paid over the period + loss of earnings created by the erosion.

Long-term

Compounding impact of the erosion. Move to ensuring proper disclosure and management of erosion risk by recommending that the Client makes additional contributions into superannuation when capable.

Example – Premium/cost 2

Client aged 47 has Life and TPD cover with Unity Insurance which is held outside superannuation. The client is concerned about the premium costs and instructs his adviser to review the policy and consider cheaper alternatives.

The adviser considers a premium saving by switching to a policy issued by Jester Insurance which offers a premium saving of 15%.

Short-term

Premium savings of 15%. Both policies are held outside superannuation and the costs are comparable

Medium-term

Consider the history of premium increases by both Unity Insurance and Jester Insurance. Ensure that the cost savings are not merely “honeymoon” savings

Long-term

Consider the long-term impact of premium levels over the likely duration of cover. Assume that the cover need will end at say age 50 when asset base and superannuation are sufficient to fund losses

Other considerations

Estate Planning

Insurance and superannuation advice are intrinsically linked to estate planning

Taxation Advice

Both the funding of the premium and the payment of a claim has a taxation outcome

Cash flow

The funding of an insurance premium requires a careful analysis of cash flow over the short, medium and long term

Retirement Savings

What is the impact on the clients retirement savings goals?

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Thank you