FOS's Top 10 tips for getting financial advice right

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1. Take detailed file notes

FOS relies on evidence provided by the parties to a dispute. Documents created at the same time as the activity or advice in question are usually given more weight than later recollections of what was said or done.

This means contemporaneous file notes of conversations and actions are solid gold when a dispute comes to us.

Whenever possible, confirm verbal instructions from a client in writing (eg send them an email after a telephone conversation confirming what was said). Statement of Advice and file notes should detail how any conflicts between goals, available resources and willingness to take risk are resolved.

2. Clear goals and strategy – you must have a conversation with the client about their goals

We do not consider client objectives and instructions written in industry terms that few clients would understand to be a reliable record.

Write down a client's objectives in the words the client has used in answering your questions about their objectives and how to quantify those objectives. This demonstrates that you have heard and understood the client's goals in seeking advice – eg 'to retire at age 65 with an income of $50,000 per year'.

Detail how the strategy you are recommending will achieve the client's goals.

3. Turn clients away or refer when appropriate

If your services are not suited to a particular client (eg they are seeking advice about direct shares and you don't provide that service), you must tell them so.

Don't try to shape the client to your offering. If a client is seeking a return which does not match their risk profile and you can't convince them to change their expectations, either send them away or see tip 4.

4. Explain the risks to clients who choose to act against your advice

You must be very clear in explaining the risks and documenting that the course of action is against your advice. Explain the risks in language the client understands, make a contemporaneous file note and have the client sign it.

5. Explain what types of service you are providing

Clients don't know the difference between information, general advice, personal advice, limited advice and execution-only services.

If you don't give the appropriate explanations and warnings or you are unclear, then you could be found liable for advice or services that you had not intended to provide.

6. Use template forms and documents carefully

Make sure template forms and documents about strategies, products and risks are appropriate to the client you are advising.

It is very difficult to convince us that you have selected the right strategies and financial products for a client if the documents contain errors, are missing information or contain copious amounts of irrelevant material.

You will also have some trouble convincing us that the client understood your documents if they contain pro-forma jargon or complex concepts.

Tailor documents to your client’s financial literacy. Statements of Advice must be clear, concise and effective.

7. Use risk profiling tools carefully

Remember, risk profiling tools are only tools. They all have inherent flaws that must be recognised and addressed by the adviser.

Make sure that the strategy and asset allocation you recommend to a client is consistent with risk profile generated by the risk profiling tool you use. If there are inconsistencies, or if a client seeks a return that does not match their risk profile, you must clearly explain the risk and impact.

8. Don’t give cookie cutter advice

The best interests duty requires that advice be reasonably likely to achieve the client’s goals and that alternatives have been considered.

You should not put all or most of your clients into the same strategy and products, especially not gearing strategies. For example, we saw a Statement of Advice for a client with taxable income of $42,000 that stated: ‘Your reasonable level of surplus income and high tax rate should make gearing an appropriate option for you’.

9. Understand and explain the products

Understand any products you are recommending. Don’t advise on products you don’t understand.

Don’t just hand over a Product Disclosure Statement (PDS) – you must explain the PDS to your client and record your discussion in the Statement of Advice (SOA).

Don’t cut and paste PDS disclosures into your SOAs. Show you understand the products by using the same words you use to verbally explain the products to your clients.

10. Be clear about the advice relationship with clients you know

If you are giving advice to a friend, relative, colleague or employee, it is critical to formalise and document the process as you would for any other client.

Who are we?

The Financial Ombudsman Service (FOS) Australia fairly and independently resolves disputes between consumers and member financial services providers.

Membership of the Financial Ombudsman Service is open to any financial services provider operating in Australia.

Our independent dispute resolution processes cover financial services disputes including banking, credit, loans, general insurance, life insurance, financial planning, investments, stock broking, managed funds and pooled superannuation trusts. We also cover estate planning, estate management and trustee services.

Contact us

To find out more and join Australia's leading EDR scheme for financial services.

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