



May 2024

Financial Advice Provider Monitoring Insights

Findings from the FMA's supervision activities and monitoring of Class 1 and 2 licensed financial advice providers

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Foreword

The financial advice sector has the most diverse range of businesses among the sectors licensed and monitored by the Financial Markets Authority – Te Mana Tātai Hokohoko (FMA). Advisers are spread throughout the country, operating from home offices through to large corporates. Financial advice plays a critical role in helping New Zealanders get ahead by building and protecting their retirement savings, investments, homes, families, and overall financial wellbeing.

The road to the new regime included a transitional licence period, delays and challenges related to COVID-19 lockdowns, severe weather-related emergencies, and rising household costs. Throughout this, the financial advice sector was resilient and continued to progress towards embedding the requirements of the new regime.

The insights in this report tell us that financial advice providers (FAPs) and financial advisers have made progress and have successfully transitioned to the new requirements. This is seen in the good practices we have highlighted. We have seen FAPs using the new requirements to further serve the needs of their clients and build stronger and more resilient businesses.

We have also identified gaps that, if they remain unchecked, could escalate into poor outcomes for clients. In some instances, the root cause of these gaps is complacency, where the FAP has taken a ‘tick-box’ approach to compliance instead of making an effort to fully understand the purpose of the new obligations.

Where we identified serious client harm resulting from non-compliance, we have taken, and will continue to take, action proportionate to the level of misconduct¹, including intensive supervision and formal regulatory action where appropriate.

As the regime matures, we expect entities’ understanding of their regulatory obligations to mature and be reflected in their practices. Our approach to supervision will strongly reflect this expectation.

FAPs need to align with the overarching objective to serve the needs of clients and invest the effort and time to ensure their arrangements are fit to achieve this.

To date, we have only reviewed a portion of the sector. While this report isn’t intended to conclude on the sector as a whole, we believe everyone can learn from these insights. We are sharing them now, early in the regime, to help FAPs and financial advisers assess and improve their operations while the requirements of the new regime are still being fully embedded.



We intend to maintain strong and open relationships with the sector and work collaboratively to deliver on the purpose of the new financial advice regime, which is to enable greater access to quality advice.

Michael Hewes

FMA Director Deposit Taking, Insurance and Advice

¹: Regulatory action taken recently in relation to FAPs has included public censure, cancellation of a transitional licence, and a range of private actions including a direction order.

Executive summary

The overarching statutory objective of the FMA is to promote and facilitate the development of fair, efficient, and transparent financial markets. The FMA's supervisory activity, where we monitor adherence to regulatory and legislative requirements by financial market participants, is integral to this objective.

This report provides key findings and observations from our supervision and monitoring reviews of Class 1 and 2 licensed FAPs. It covers monitoring activity from 15 March 2021 to 30 April 2024. The purpose of the report is to help those giving regulated financial advice to understand good practices and gaps we have identified, and use these insights to improve their own operations. Our observations for FAPs present an opportunity to reflect on their understanding and implementation of the regulatory requirements at this early stage in the regime.

The new financial advice regime came into full effect on 17 March 2023, following a two-year transitional period.² Now, anyone who provides financial advice services must be licensed as a FAP (or operating under a FAP licence). The regime aims to ensure quality financial advice is available to those who seek it.³ The regime introduced new duties, disclosure requirements, and a Code of Professional Conduct for Financial Advice Services (the Code) that applies when giving financial advice, setting sector-wide standards for conduct, client care, and competence.

FAPs are a large and diverse population, and the regime is still relatively new. There is no 'one size fits all' solution to meeting obligations; businesses should adapt their approach to ensure their compliance programme is effective for their business.

Our monitoring of FAPs

The FMA conducts a range of supervision and monitoring activities. These are proactive, as part of our annual monitoring programme, and responsive, where we follow up on external complaints, queries, or information received. Our approach to monitoring is risk-based and seeks to focus our activity where we have the greatest opportunity of reducing harm to clients. This means we only actively monitor a portion of our regulated population in any given year. More information about our monitoring approach is included in the Appendix.

2: The Financial Advisers Act 2008 was repealed, and the Financial Markets Conduct Act 2013 (FMC Act) amended to put in force the current regime, which sets out the duties and obligations that apply to all persons who give regulated financial advice and those who provide a financial advice service.

3: As set out in [section 431B of the FMC Act](#)

Summary of supervision activity from 15 March 2021 - 30 April 2024

Processed 56 notifications from entities that provided information required by regulations

Responded to 1,029 enquiries and information reports from market participants, industry bodies, and members of the public

Assessed and responded to 147 reports about alleged misconduct of FAPs we supervise

Conducted monitoring engagements of almost 60 FAPs, touching over 350,000 clients, with FAPs monitored ranging from sole adviser businesses to some of the largest providers.

As part of this we:

- reviewed over 1,000 documents
- reviewed more than 500 client files
- conducted almost 500 interviews
- interviewed over 200 people

Our findings

Overall, from our reviews we are encouraged by the progress made and the transition to the new requirements. We are pleased to see how this has strengthened the relationships advisers have with their clients. Many of the advisers we spoke to were able to demonstrate that they had their clients' interests at the forefront when making recommendations, and had in-depth product knowledge that supported quality advice and enabled clients to choose financial products that meet their needs.

We saw that some FAPs and advisers had a limited understanding of the purpose and intent of the regime and took a 'tick box' approach to compliance, rather than looking at how their arrangements can achieve good client outcomes. The consequence of this approach is that advice firms risk not achieving substantive compliance with the conduct and client care duties when giving advice.

We did identify compliance gaps that, in a small number of cases, had resulted in client harm. Where we identified serious harm, we provided feedback, set expectations for remediation, and took further enforcement action where warranted.

We have grouped our findings into two broad categories: the first related to the giving of financial advice, which relates to the duties, disclosure, and the Code, and the second focused on FAPs' arrangements and licensee obligations.

Giving financial advice

- We saw some advisers did not take reasonable steps to ensure clients understood their advice. In particular, some clients were not informed of the risks or consequences associated with the advice. When a client does

not understand the advice they receive, this can result in poor decision making and lead to potential financial harm, particularly with insurance, investment and loan products. When an adviser does take the time to ensure clients understand the advice, this promotes confidence in the advice and the sector as a whole.

- In some instances, advisers were unable to demonstrate that clients understood the nature and scope of advice prior to advice being given. Clients should understand the nature and scope of advice, including any limitations, to support informed decision making.
- Some advisers did not conduct sufficient needs analysis, or were making recommendations outside of clients' risk tolerances without providing sufficient rationale. Understanding a client's circumstances allows advisers to tailor their recommendations so the client can choose suitable financial products.
- In some instances, disclosure of commissions and incentives by advisers was inadequate or inconsistent across client documents, and disclosure provided to clients about the nature and scope of advice lacked information or was different to what we were told during monitoring visits. It is important for a client to receive information on the nature and scope of advice, and any commission or incentives received, to assist with their decision about whether to work with an adviser or FAP, or to act upon a recommendation.

Financial advice provider obligations

Many FAPs had oversight arrangements that were not fit for purpose, particularly for larger or more complex FAPs. A key gap we want to highlight is that in some cases there was no oversight of the quality of advice, which makes it difficult to know whether those giving advice are following their duties. Having sufficient oversight allows for the detection, and possible prevention, of client harm as a result of poor advice, and can provide FAPs with confidence that they are meeting their obligations.

Next steps

Over the past few years, our focus has been on the successful implementation of the new regime. This has involved supporting the sector through licensing, engaging with the market, working with industry bodies, and publishing guidance. We are now turning our attention to deepening our understanding of the diverse range of business models across the sector.

The insights in this report will form the basis of our future supervision focus, along with information provided through FAP regulatory returns. We therefore encourage advisers and FAPs to evaluate their conduct, compliance and practices against the findings in this report, as well as their obligations, to identify areas for improvement. As the regime matures, we expect FAPs' and advisers' understanding of their regulatory obligations and compliance arrangements to develop. Our approach to supervision will reflect this: where we see conduct that has potential for serious client harm, our actions will increase in intensity and include the use of intensive supervision and formal regulatory tools where required.

We are also committed to identifying and sharing good practice, maintaining strong relationships and engaging frequently across the sector, to support the journey to a state where more New Zealanders are able to access and experience quality financial advice.

What we found

Our findings and recommendations are relevant for all Class 1 and Class 2 FAPs and individuals giving regulated financial advice to retail clients. Some findings and recommendations may be relevant for Class 3 FAPs. Findings for specific types of financial advice are detailed throughout the section.

Giving financial advice

This section covers our findings relevant to financial advisers and the giving of advice. It will be useful for advisers to review their own conduct and skills against, and for FAPs to help consider whether they have suitable processes, policies and resources in place to support their advisers.

Understanding of regulated financial advice

What we want to see

Financial advisers and their clients know what constitutes regulated financial advice. Clients understand the protections they are entitled to and receive advice where appropriate.

Regulated financial advice is defined under section 431C of the Financial Markets Conduct Act 2013⁴ (FMC Act).

What we found

While most advisers had a good understanding of regulated financial advice, we observed instances where advisers had a limited understanding and therefore did not follow an advice process, resulting in non-compliance with duties and obligations. For example:

- A client review resulted in a recommendation to keep an existing financial advice product in place, which the adviser did not consider to be regulated financial advice.
- Advice was given to decrease the 'sum insured' amount on an insurance policy, but this was not treated as giving regulated financial advice. The risks around under-insurance were therefore not communicated to the client.

We observed some financial advisers offering a combination of financial advice and information-only services. In some cases, it was not clear to clients that it was an information-only service. In our view this creates a risk of confusion for clients, who are seeking financial advice.

4: See [section 431C of the FMC Act](#)

Recommendations

Advisers, as well as directors, senior managers and compliance support staff (those who are responsible for running the FAP), should have a clear understanding of what constitutes regulated financial advice. If advisers do not understand the difference between information and advice, they may not give advice when a client needs it, may not know that they have given advice and therefore not follow an appropriate advice process, or may not know when advice should be reviewed.



Review the definition of regulated financial advice and consider instances where advisers may be unintentionally giving advice without due regard to the FAP duties and obligations.

Understanding nature and scope of advice

What we want to see

Clients understand the nature and scope of the advice, including which areas they are being given advice on, what information and circumstances are being taken into account as part of the advice, and what is not being considered. This allows them to make an informed decision on whether to proceed with the services of the FAP and its adviser.

Advisers do not give regulated financial advice to a retail client unless they have taken reasonable steps to ensure the client understands the nature and scope of the advice being given, including any limitations on this.

A person must not give regulated financial advice to a retail client unless they have taken reasonable steps to ensure that the client understands the nature and scope of the advice being given, including any limitations on the nature and scope of the advice⁵.

What we found

Good practice

The majority of advisers demonstrated through disclosure and record keeping that the nature and scope of the advice had been discussed with and understood by clients as part of the initial steps of the advice process. Where there were changes to the agreed nature and scope, this was explained to the client as part of the advice process.

⁵: As set out in [section 431J of the FMC Act](#)

Some advisers were unable to demonstrate through record keeping they had taken reasonable steps to ensure clients understood the nature and scope of advice, including any limitations.

This included instances where:

- the nature and scope of advice was not discussed until after advice was provided
- limitations of the advice were not explained
- conflicting information was provided on nature and scope, making it difficult for clients to understand what they were getting
- the disclosure relating to nature and scope was inadequate, making it difficult to demonstrate that nature and scope of advice had been discussed and understood
- advisers were unable to demonstrate or evidence through record keeping that clients understood the nature and scope of advice.

Spotlight

Cross sector

During our reviews we saw examples of advisers who provided nature and scope disclosure documents that differed from the recommendation provided to the client, making it unlikely the client would understand the nature and scope of the advice. The nature and scope documents outlined the product providers that the adviser worked with and noted that comparisons would be made for the client's existing products. However, the recommendations given were for a product provider not listed in the nature and scope documents, and there was no comparison made for the existing products. Making recommendations outside the agreed nature and scope has the potential for client harm, particularly when clients believe relevant comparisons were made and this does not occur. This can lead to clients choosing a product that does not fully meet their needs.

Recommendations

We do not prescribe what steps advisers should take to ensure clients understand the nature and scope of advice; we expect them to take a practical approach. Advisers need to discuss nature and scope with their clients, outline any limitations to the advice, and take reasonable steps to ensure the client understands what they have been told. Good record keeping will help to support this.



Review your advice process to determine if appropriate steps are being taken and at what point, and whether records are sufficient to demonstrate this. Review all documents used as part of the advice process to ensure nature and scope is consistent throughout.

Suitability of advice

What we want to see

Clients receive, and act upon, suitable advice that supports the selection of products that are appropriate and meet their needs.

Persons that give regulated financial advice must comply with the standards of ethical behaviour, conduct, and client care required by the Code⁶. Code Standard 3⁷ requires that a person who gives financial advice must ensure that the financial advice is suitable for the client, having regard to the nature and scope of the financial advice.

What we found

Good practice

Suitability of advice was often supported by in-depth product knowledge, understanding of a client's background, and strong relationships with business development managers and other external parties where support was provided to help form recommendations. Advisers told us how knowledge of their clients was important to their advice process and were able to demonstrate how this led to quality advice that suited their clients. Many advisers used tools or checklists, including external tools, to help determine what advice was suitable for the client.

One key aspect of Code Standard 3 is having reasonable grounds for the financial advice, which can include analysing a client's relevant circumstances, such as their financial situation, needs, goals and risk tolerance.

While most advisers effectively demonstrated how the advice they gave was suitable for their clients, we were disappointed with some advisers' inability in this area.

We observed that some advisers did not conduct sufficient needs analysis or product research, and did not consider proposed policy terms, creating potential for poor client outcomes. We also observed instances where two or more products had been considered but there was a lack of comparison to support the recommendation. This was of particular concern in instances where the recommendation was to replace an existing product with a new one.

In some instances, recommendations were not in line with the client's needs or goals, or the advice process did not consider the suitability of advice at all.

We also saw examples where advisers:

- gave recommendations for products outside of a client's risk tolerance without rationale
- recommended replacing existing products with new ones that would result in a loss of benefits for the client
- made assumptions about affordability due to a client's age
- recommended cover greater than a client's need simply because they could afford it.

6: As set out in [section 431M of the FMC Act](#)

7: See the [Code of Professional Conduct for Financial Advice Services](#)

Spotlight

Cross sector

In our engagements with the sector, some advisers told us the new regulatory regime has resulted in increased quality of advice with recommendations more in depth, including detailed advice documents supported by comprehensive research. This research was often shared with the client, supporting their understanding of how the advice had been tailored to their needs.

Personal risk insurance

We saw examples of advisers proactively discussing client situations with product providers to assist them in forming recommendations. This was encouraging to see, particularly where clients had unique circumstances that impacted the types of cover and terms available. This allowed for quality advice to be given, and for policies to be put in place promptly.

Fire and general insurance

We saw good practice relating to the ongoing suitability of advice. At renewal time, many advisers proactively reached out to their clients to assess if the product was still suitable for their current circumstances and discuss proposed changes to ensure they would be sufficiently covered.

Investments

We observed instances where advisers did not conduct risk tolerance assessments, including when providing advice to vulnerable clients. Providing investment advice without having sufficient understanding of a client's risk tolerance makes it difficult for advisers to demonstrate how their advice was suitable and has the potential for client harm.

Recommendations

We expect advisers to ensure financial advice is suitable for their client. When making a comparison between financial advice products, there should be an assessment completed on each product. Where making assumptions, these should be relevant to each client and within reason.

Advisers also need to think about how suitability is maintained if they provide ongoing advice. Advisers should consider a client's current and possible future needs and circumstances to ensure the advice remains suitable throughout the lifecycle of a product.



Review our [guidance on reasonable grounds for financial advice](#) to ensure sufficient understanding of licensee obligations⁸.

⁸: This guidance is focused on financial advice about financial products purchased for investment purposes, in particular initial public offerings and listed equity securities.

Prioritising clients' interests

What we want to see

Clients receive advice that is in their interest, contributes to better outcomes, and builds trust and confidence in seeking and obtaining financial advice.

When providing regulated financial advice, advisers give priority to their clients' interests and, where there is a conflict, take all reasonable steps to ensure advice is not materially influenced by their own interests, or the interests of another person connected with the giving of advice⁹.

What we found

Good practice

We saw financial advisers with a strong focus on giving priority to clients' interests. We saw advisers with good processes for higher risk practices like replacement business advice, including additional reviews, to support advice that was in the clients' interests.

While many advisers were able to demonstrate how they managed conflicts of interest and prioritised their clients' interests, we identified gaps in some advisers' ability to demonstrate that advice given was in the clients' interest. In particular, we saw advice for clients to:

- switch to a product provider that paid higher levels of commission to the adviser, without demonstrating why that was the most appropriate provider to meet the client's specified needs
- replace an existing policy, which would result in the client being worse off due to policy loadings and exclusions, without being able to explain why they recommended this option
- move from one investment product to another that had substantially higher fees without demonstrating why this was in the clients' interest.

We also saw a lack of training and focus on conflict of interest management.

Spotlight

Mortgages

We observed instances of advisers recommending clients obtain less lending than approved, to support affordable loan repayments in line with their budget or risk appetite. This clearly demonstrated advisers favouring the client's interests over those of the adviser, who may earn more commission for a higher amount of lending.

Personal risk insurance

We saw advisers recommending clients replace existing insurance policies where the proposed terms of new policies had exclusions not on their existing policy, which would disadvantage the client. In such instances we consider the advisers may have prioritised their own interests over those of their clients.

⁹: As set out in [section 431K of the FMC Act](#)

Recommendations

We expect advisers to be able to demonstrate how their advice process prioritises their clients' interests over their own. Advisers should be able to show how:

- conflicts are managed
- risks from actual and potential conflicts are mitigated; and
- client interests have been prioritised when giving financial advice.



Review our [self-assessment tool on managing conflicts of interest](#) to identify strengths or weaknesses in advice processes. There are a range of courses available to support adviser knowledge and understanding of conflict management, including through industry associations and training providers.

Ensure clients understand advice

What we want to see

Clients understand advice and can make informed decisions on whether to act on the advice given, ensuring they have products that meet their needs.

Those who give financial advice take reasonable steps to ensure the client understands the advice, including having sufficient comprehension of the content, risks and consequences of the financial advice¹⁰.

What we found

Good practice

We observed many ways advisers ensured clients understood their advice, including advisers:

- asking questions throughout the advice process
- presenting risks and consequences in a table format and highlighting these prominently
- relaying any change in benefits to clients when recommending replacing existing products with new products.

To support client understanding, we also observed advisers:

- considering the format to provide advice to each client, particularly those in vulnerable circumstances
- offering verbal and written explanations to clients
- allowing trusted family members to be present at the time of advice, particularly for elderly or vision/hearing impaired clients, to ask questions and reiterate the advice.

Some advisers did not have sufficient processes or were unable to demonstrate that reasonable steps had been taken to ensure clients understood the advice. Some took no steps at all, or put the onus on clients to follow up if they were unsure about aspects of the advice.

¹⁰: As outlined in Code Standard 4 of the [Code of Professional Conduct for Financial Advice Services](#)

We saw instances where clients were not informed of risks or consequences associated with the advice, particularly advice to replace existing products, or reduce or remove insurance cover. Some advisers provided insufficient information about the product, making it challenging for clients to understand the basis of the advice and therefore the advice itself.

In some instances, we noted clients having existing products replaced without evidence that reasonable steps were taken to inform them about consequences such as cash clawbacks, stand-down periods, differences in cover or new exclusions.

Spotlight

Mortgages

In our engagements with the sector, some mortgage advisers told us the new regulatory regime was an opportunity to go beyond being a broker¹¹ between the product provider and the client. Some are sharing more of their expertise and knowledge with their clients, to help them navigate the complexity of obtaining a loan. The result is advice the client can understand. The Code has been instrumental in encouraging more of this value proposition.

Personal risk insurance

- We observed instances where clients opted to take a lower level of cover than recommended, to make premium payments more affordable; however, the risk of underinsurance was not communicated. Clients need to understand the risks of being under-insured, so they are able to make informed decisions.
- In some examples where advisers did explain the risks of replacing an existing policy, they laid this information out in a table comparing both policies, and outlined consequences such as benefits lost and benefits received. This supported clients in making informed decisions on whether to act on the advice provided.

Investments

- Some investment advisers had comprehensive conversations with clients outlining the investment plan and key considerations, particularly with clients who had limited investing experience. These conversations were supported by tailored advice documents and follow-up discussions to ensure the clients understood the advice before implementation.
- We also observed instances where advisers recommended clients close to retirement invest in growth funds. This may be suitable for some of these clients; however, advisers need to ensure that the risks of investment are explained, particularly in relation to market volatility.

11: The term broker does not exist under the FMC Act following the repeal of the Financial Advisers Act 2008

Recommendations

When clients act on advice without fully understanding it, there is potential for poor outcomes. We expect advisers to take reasonable steps to ensure clients understand the advice or recommendations given to them before proceeding. These steps are up to each business to determine, based on their specific business and client base.

We recommend being mindful of where a client's circumstances may require additional attention or care to ensure advice is understood, such as with complex products or vulnerable clients, and incorporating this into advice processes.



Review your advice process to ensure it covers steps to ensure clients understand advice, and how this is to be documented. This should give consideration to your client base or target market, with a tailored approach where appropriate.

Disclosure

What we want to see

Clients receive clear and useful information, so they are better able to make informed decisions on whether to seek, or act on, financial advice.

Prescribed information¹² is given to clients at certain stages of the advice process as required¹³.

What we found

Good practice

Many FAPs we reviewed had publicly available disclosures that were easy to locate. They were prominently displayed on their websites and were clearly labelled as disclosure. We found most FAPs had clear information on their complaints process and dispute resolution scheme (DRS), and sufficiently covered possible fees and expenses. We also saw advisers reviewing their disclosure to ensure it met the requirements including dates and version control.

We did observe some common gaps in FAPs' publicly available disclosure, including having insufficient detail, particularly around nature and scope, identification of product providers, and conflicts of interest.

We also saw gaps in the disclosures given at the time nature and scope was known, and at the time advice was given, including instances where:

- disclosure was not provided in a timely manner, including weeks after advice was given
- commissions and incentives were not disclosed, lacked detail around the calculation of commission, or did not show who would receive a commission and in what circumstances

12: As set out in the [Financial Market Conduct Regulations 2014](#) (the FMC Regulations)

13: As set out in [section 431O of the FMC Act](#)

- the explanation of fees and expenses was unclear
- disclosure was inconsistent across different documents
- the explanation of the nature and scope of advice was incorrect or misleading
- complaints and DRS information was missing.

Disclosures need to be made available before, at, or as soon as practicable after the relevant stages of the advice (as required by the FMC Act and the FMC Regulations). Disclosure is fundamental to the regime and where the prescribed information is not made available, it impacts clients' ability to make informed decisions about the adviser, the FAP, and the advice itself.

It is also critical that FAPs and their advisers disclose incentives and commissions accurately. When clients have this information, they get a better understanding of how their adviser's remuneration affects the price they pay. It also encourages them to have a more open discussion with their adviser about any other potential conflicts of interest around the advice.

Good practice

Overall, we observed that the disclosure given when a complaint is received was satisfactory, and was provided to the complainant within two working days, in line with the FMC Regulations. We were pleased with this, as it is crucial that complainants know how their complaint will be handled and what steps they can take if they are not satisfied with the outcome.

Spotlight

Mortgages

We observed many advisers disclosing their commissions in an easy-to-understand table that clearly showed when the commission would be given, who would pay and receive it, and the value. Where approximations or percentages were given in the early stage of the advice process, the final amount was later disclosed. Providing it in this form made it easy for clients to understand, and allowed advisers to demonstrate how they met the obligation to disclose this information.

Recommendations

We expect advisers and FAPs to comply with their disclosure obligations, keeping in mind the stages and different circumstances that trigger the need for certain disclosures. FAPs and advisers should have a process in place to ensure the content of their disclosures remains up to date.

We recommend reviewing your disclosures against the applicable regulations, to ensure they meet the requirements and are consistent.



The Financial Services Council of New Zealand released a [disclosure guide](#) with practical examples that can be incorporated into adviser disclosure processes. We recommend reviewing this against your existing disclosure process and documents.

Continuing professional development

What we want to see

Advisers plan and complete learning activities to maintain their competence, knowledge, and skill. This continuing professional development ensures advisers can continue to give quality advice and comply with their obligations. Competency not only maintains the required standard, but is also commensurate with the specific requirements of each adviser's job.

A person who gives financial advice must undertake continuing professional development (CPD), including planning and completing learning activities to ensure they maintain their competence, knowledge, and skill¹⁴.

What we found

Good practice

We were encouraged to see some advisers with CPD plans that had a diverse range of planned learning spread over 12 months. The planned activities accounted for all areas of advice relevant to their role, and incorporated formal learning, webinars from product providers, and adviser research.

While some advisers had robust CPD plans, we identified many advisers with no plans. Others had plans that were not kept up to date or did not sufficiently cover the adviser's professional development needs. We noted advisers:

- relying solely on product provider webinars for their continuing professional development
- giving no consideration to keeping their knowledge of the regulatory framework up to date
- not completing any analysis of their knowledge gaps.

Some plans only recorded prior learning, did not keep an up-to-date record of current training, or did not account for future development.

Spotlight

Fire and general insurance

Overall, fire and general advisers, and the FAPs that engaged these advisers, had a positive approach to CPD. Onboarding and training programmes were robust, particularly for advisers new to the sector. Advisers often had strong product knowledge and were able to easily identify how different products met client needs.

Mortgages

We also saw mortgage advisers take a considered approach to their CPD. Advisers' competency was often supported by keeping their knowledge on the economic situation current, to help navigate an ever-changing environment of rising interest rates, increasing house prices, and the slowdown of some industries as a result of the pandemic. Having this up-to-date understanding allowed their clients to have accurate information during a time of uncertainty, and to make informed decisions.

14: As outlined in Code Standard 9 of the [Code of Professional Conduct for Financial Advice Services](#)

Recommendations

Advisers should remain suitably competent for the advice they give by maintaining their competence, knowledge and skill. It is critical that advisers take a considered approach to CPD, by identifying their knowledge gaps, covering all aspects of their financial advice offering and planning for ongoing competence, knowledge, and skill at least annually.

We do not want to see CPD treated as a tick-box exercise focused on the number of hours completed instead of the content of CPD and its relevance to their financial advice service. We also expect all relevant training to be recorded, with sufficient oversight by FAPs.

We recommend considering a range of learning to support your ongoing competence, knowledge, and skill.



- Create and maintain a skills matrix to identify knowledge and skill gaps.
- There is a range of options for learning, including online content such as recordings and podcasts, as well as books and tertiary study that provide relevant content. Talk to your networks about training and support options – many adviser associations, aggregators and product providers have regular webinars. We have also seen advisers join together and form study groups.

Financial advice provider obligations

This section covers our findings relevant to governance, policies, processes and other arrangements that are the responsibility of licensed FAPs. It may also be useful for advisers, to help them identify potential improvements to their FAP's frameworks and resources.

Compliance oversight

What we want to see

FAPs that engage other persons to give regulated financial advice take all reasonable steps to ensure those others comply with their duties¹⁵. The FAP's oversight of those advisers, and the advice given by them, enables the detection and prevention of potential harms, and ultimately promotes clients receiving appropriate products and services.

What we found

Good practice

We found some FAPs' oversight arrangements had been reviewed and improved over time. Frameworks were supported by tools and technology, such as oversight calendars, checklists, reporting, and committees that met regularly to discuss findings. We observed instances where FAPs were taking a proportionate approach to oversight, in line with the size and scale of their business, and had clear roles and responsibilities.

We saw Class 1 FAPs with registers outlining each duty and obligation alongside the policy or process to address it. These policies and processes were proportionate for a Class 1 and were embedded in the business, ensuring all components of compliance with advice duties were well managed.

For Class 2 FAPs, we saw examples where the oversight function was supported by a staff member in a compliance or hybrid non-advisory role, or where oversight was supported by industry groups or independent advice and reviews.

Some Class 2 FAPs had developed a compliance assurance programme (CAP) that covered all the necessary compliance obligations as appropriate for an advice business of its size and nature. The CAP was tailored to the business by its directors, and they dedicated time each year to review it. The CAP covered many of the recommendations made in the [FMA's information sheet on CAPs](#). While a CAP is not a specific obligation, it can be a useful tool to ensure compliance obligations are met.

15: As stated in [section 431Q of the FMC Act](#)

FAPs told us that compliance is an ongoing and evolving process; recognising this allows for continuous improvement, to work towards better outcomes for clients.

In some reviews, we found significant gaps in FAPs' oversight.

We found many instances where oversight was insufficient or not conducted, or where oversight frameworks were poorly designed. This included the following:

- No risk considerations, no oversight of advice given in person, no oversight for certain types of advice or financial advice products.
- The oversight framework did not test the quality of advice; it was focused on record keeping practices, but not the content of the records.
- Oversight was largely based on the compliance processes of the FAP's offshore parent company or was purchased 'off-the-shelf', and not tailored or adapted to the New Zealand business or legislation.
- Some FAPs that did have a CAP as part of their oversight framework did not follow it in practice.
- Instances where FAPs did not have oversight arrangements in place at the time of licensing, despite certifying in their licence application that these had been established.
- Some FAPs with authorised bodies (ABs) had insufficient arrangements in place relating to the control and supervision of services provided by ABs. This included a lack of supervision of policies and processes implemented and followed by each AB.

We observed that inadequate oversight is often aggravated by a lack of governance, a lack of compliance knowledge and maturity, and a lack of independence between those implementing compliance procedures and those who review compliance and detect issues.

Recommendations

We strongly encourage FAPs to review their approach to oversight, incorporating policies and processes designed around their own businesses to ensure their business is providing a high standard of financial advice. Frameworks should focus on the substance of the advice, rather than just confirmation that records exist, in order to identify whether an adviser has met their duties. Oversight should have sufficient scope, such as covering instances where advice has been given but not acted upon by the client.

Where more comprehensive frameworks are required, they should be risk based. This can include areas with higher risk to clients such as replacement business, or previous adviser poor practice.

Oversight frameworks should also be proportionate to the size and scale of the business and consider all aspects of business and adviser obligations.

- For Class 1 FAPs and smaller Class 2 FAPs, this could include directors overseeing duties and obligations including the quality of advice, supported by robust policies and processes.
- For Class 2 FAPs with large or more complex businesses, the responsibility for oversight could sit with a committee, including senior managers and staff from risk and compliance functions. Larger FAPs often have dedicated compliance resources and may use external independent advice and support. Reporting should be provided to senior management, committees, or the Board on a regular basis.

We recommend staff responsible for FAP oversight undertake training on regulatory requirements to ensure sufficient understanding of licensee obligations. This could include reviewing the licensing requirements set out in the [FAP Full Licence Application Guide](#) as well as the FMC Act, the Code and the Standard Conditions for full FAP licences. The FMA website also has a range of information available to assist with understanding the regulatory obligations.



We haven't restricted the types of arrangements considered acceptable. Consider whether your oversight policies and procedures are fit for purpose and are designed for and around your own business. We recommend reviewing existing oversight frameworks to ensure these meet our expectations, are in line with the size and scale of your business, and consider the risks within the business. We also recommend reviewing our [information sheet on compliance assurance programmes](#).

Record keeping

What we want to see

FAPs create and maintain adequate records in relation to their financial advice service. Records are kept for a period of at least 7 years from the latest of several dates specified in Standard Condition 1¹⁶.

What we found

Good practice

We observed a wide range of good record keeping practices. Some Class 1 FAPs used simple and effective customer relationship management (CRM) systems, such as one that captured all client interactions including advice reviews and key changes to client circumstances, to help demonstrate the ongoing suitability of advice given. For a small FAP, a simple CRM system of this nature is suitable for the scale of the advice business, and meets the expectations set out in our information sheet on FAP record keeping.

Larger FAPs sometimes used CRM systems with a wider range of features to meet the more complex needs of their advice business. CRM systems provided by aggregators often incorporated automation, allowing advisers to capture and record information with ease.

We observed that when an appropriate CRM system was used by a FAP, it supported good record keeping practices, as well as making the advice process more efficient and effective.

More work is required in this area; most of our reviews had at least one gap in record keeping practices.

When reviewing records relating to advice we observed common gaps where there were insufficient records or documentation of:

- client interactions and communication

16: See the [Standard Conditions for full FAP licences](#)

- disclosure being provided to clients
- grounds for the advice or research conducted
- conversations discussing the risks and limitations of advice
- steps taken to ensure clients understood the advice.

It is crucial that FAPs have these records to demonstrate what took place and how it supported clients receiving and understanding quality advice.

When reviewing records relating to how FAPs meet their obligations, there were instances where FAPs were unable to provide us with documentation or it was not made available in a reasonable timeframe. In some cases, documents were destroyed during the required retention period and insufficient records of adviser training were kept.

Recommendations

Record keeping is an essential communication tool for demonstrating that advisers have followed an appropriate advice process, supporting clients in their decision making and understanding of the advice received. Records help demonstrate how FAPs meet their duties, including ensuring clients receive suitable advice and disclosure. Records also help to protect FAPs and clients where information is required at a later date, such as for making a claim on a policy, or to resolve a dispute.

We expect FAPs to keep accurate and complete records of all client interactions relating to financial advice provided and how licensee obligations are met. We do not prescribe any particular format for record keeping, but it is important that records are complete, accurate, easily accessible, able to be conveniently inspected and reviewed, and retained for the prescribed period. When conducting monitoring reviews, we typically request that information is provided to us within 10 working days, and any late documentation may be considered a breach of obligations.



Review our [self-assessment tool for record keeping](#) to identify any gaps in your policies and processes. We also recommend reviewing our [guidance on record keeping for financial advice providers](#).

Complaints

What we want to see

FAPs have an internal complaints process for recording and resolving client complaints relating to their financial advice service that covers how complaints will be dealt with and ensures feedback from client complaints is used to help improve the quality of financial advice and services¹⁷.

What we found

Good practice

We found that most FAPs had robust complaints processes sufficient for the size of the business, and had a positive attitude towards dealing with complaints. Advisers told us that dealing with complaints and resolving them with clients was a priority, and that the process could reveal opportunities to improve their business. We observed complaints registers that recorded adequate detail of complaints and how they were resolved, and showed an understanding of what constitutes a complaint, as required by the FAP licence standard conditions.

While most FAPs had robust complaints processes, across our reviews we observed some key areas where improvements are required. The key gaps we identified in FAPs' complaint processes included:

- incorrect understanding or definition of a complaint
- the complaints process not being followed by advisers
- complaints not being recorded, including complaint registers not being in place upon being granted a FAP licence
- unclear roles and responsibilities for managing complaints
- limited analysis of complaints to identify trends and early indicators of issues
- limited oversight of adviser complaints in larger FAPs
- a lack of reporting to management and the board about complaints and any underlying systemic issues.

Recommendations

Effective handling of client complaints is a key aspect of good conduct. We expect FAPs to have processes in place for identifying, recording and resolving complaints. Complaints processes should be client-focused, and FAPs should use complaints information to identify any trends and take appropriate steps to address findings and make improvements.

We encourage FAPs to review our [self-assessment guide on complaints handling](#) alongside their internal complaints process to assess gaps.



Your DRS is an excellent source of support. They have a wide range of supporting materials available, including templates and information on managing complaints and case studies.

¹⁷: As stated under Standard Condition 2 in the [Standard Conditions for full FAP licences](#)

Business continuity and technology systems

What we want to see

FAPs have and maintain a business continuity plan (BCP) that is appropriate for the scale and scope of their financial advice service, and includes procedures that guide how to respond, recover, resume, and restore operations to a pre-defined level following a disruption.

FAPs' BCPs allow them to respond to unexpected circumstances while continuing to give advice and client assistance and maintaining security of information.

FAPs notify the FMA of any material incidents within 10 working days¹⁸.

What we found

Good practice

Most of the FAPs we monitored had a BCP that was tailored to their business and in line with the size and scale of their business. Some FAPs told us that the 2023 weather events in Auckland and Hawke's Bay prompted them to perform an additional review of their BCP and make improvements, even when they had not been impacted by the events themselves.

We also saw FAPs who had locum arrangements in place, increased staff levels to support business continuity, and had succession plans in place.

For larger FAPs, we observed those with parent companies overseas were often provided with adequate resources and support for business continuity and had the ability to recover from an event efficiently and effectively.

Across our reviews, we also identified gaps in some FAPs' BCPs, including where they:

- covered only a narrow scope or did not account for key areas like loss of availability of critical resources, including staff, records, systems, suppliers and premises
- failed to sufficiently address key person risk, including the inability to access and provide documentation to the FMA in times of disruption
- were not reviewed or tested annually (or testing and results were not documented)
- were not sufficient for the size and scale of business and the risks identified
- did not identify the business's critical technology systems and how these would be recovered and restored.

¹⁸: As stated under Standard Condition 5 in the [Standard Conditions for full FAP licences](#)

Spotlight

Fire and general insurance

We observed that advisers responded well to business disruptions. With the weather events in Auckland and Hawke's Bay, we saw FAPs providing support to each other to ensure clients got access to advice and related services in an effective manner.

Recommendations

We expect FAPs to have a BCP in place that reflects the size and complexity of the provided financial advice service, operational arrangements and exposure to disruptive events. BCPs should be maintained, including regular reviews and testing. As the size and nature of a FAP changes, its BCP should be updated to reflect those changes, and to ensure any new or emerging risks are considered.

For small FAPs with simple processes and technology, a simple BCP may be sufficient. For larger FAPs, BCPs should be comprehensive, likely covering a wider range of possible events.



Review our [self-assessment tool on cyber security and BCP](#) to determine whether your BCP is sufficient for your business. Review our information sheets on [developing cyber resilience for FAPs](#) and [cyber security and operational systems resilience](#). There is also a range of information available online, including through industry associations or compliance support providers.

The FMA has launched a secure online notification form for FAPs to notify the FMA of material incidents that materially disrupt or affect the provision of your market service or has a materially adverse impact on your customers. For more information see our [notification information sheet](#).

Appendix

About the financial advice sector

The financial advice sector is large and diverse. There are 1466¹⁹ licensed FAPs, ranging from sole adviser businesses to entities with 500 or more advisers, advising both directly through authorised bodies, financial advisers, and nominated representatives, and indirectly through interposed persons.

The advice regime allows for different business models and ways to provide advice. FAPs can specialise in a specific type of advice, such as personal risk insurance, mortgages, fire and general insurance, investments (including KiwiSaver), and broader investment planning, or provide a range of advice services. FAPs are also able to offer advice digitally, leading to efficiencies and improved client experiences.

About our monitoring

FMA's monitoring of the sector is risk-based and intelligence-led. We use information we hold to decide on our focus areas and select who we will monitor. Where we have intelligence that suggests the potential for harm, we prioritise our monitoring and take a more intensive approach to prevent any further client harm, which may involve formal regulatory action. Our risk-based and intelligence-led approach allows us to be proportionate and reduce unnecessary regulatory burden where possible, by focusing our activity where we have the greatest opportunity of reducing harm to clients.

We monitor licence holders, as well as authorised bodies, interposed persons, and financial advisers.

When conducting a monitoring review, we are considering obligations under the FMC Act, FMC Regulations, the Code, the Standard Conditions for full FAP licences, and any specific conditions placed on the FAP licence. We expect to see an explanation of how the financial advice service operates in practice, how the FAP goes about meeting its obligations, and how this delivers good client outcomes. We expect the FAP to be able to demonstrate to us how its business policies operate in practice and, where relevant, how you maintain oversight over advice given.

We review the policies, systems and processes attested to as part of the FAP's full licence application to understand their effectiveness. We also want to understand the culture, strategy and objectives of the business, and how this aligns with the wider sector.

Our reviews are based on documents supplied to us by the FAP as well as interviews with those operating under the FAP, including administration and support staff, advisers, compliance staff, senior managers, directors, and CEOs. The reviews are not an audit or investigation; they are about understanding the business better and providing feedback; however, this will include the use of formal regulatory tools where warranted.

For further information on the monitoring process, you can access our information sheet on [monitoring of licensed FAPs](#).

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