

Full Licensing Standard Conditions Record Keeping

This Workbook is one in a series of workbooks to assist Financial Advice New Zealand Members meet their obligations under full licensing requirements

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WORKBOOK OVERVIEW

We have created this workbook for our members to use as a guide to help prepare for the full licensing conditions as explained in detail on the page below.

If you are granted a full financial advice provider (FAP) licence by the FMA, the licence will be subject to conditions. See section 402 of the Financial Markets Conduct Act 2013 (**FMC Act**).

Your licence application will include details of your FAP business and details of how you will comply with:

- Financial Markets Conduct Act 2013 (FMC Act)
- Financial Markets Conduct Regulations 2014 (FMC Regulations)
- Code of Professional Conduct for Financial Advice Services
- **Conditions** imposed by FMA (standard conditions)
- Or **specific conditions** applied by the FMA.

Conditions will include:

- a condition that the licensee or authorised body may, under the licence, only provide the market services or class of market services to which the licence relates and for which each person is authorised under the licence (see section [402\(1\)\(a\)](#) of the FMC Act)
- conditions imposed by the FMA under section [403](#) of the FMC Act – these will generally include: the **standard conditions** and any **specific conditions** any conditions imposed by regulations.
- As at November 2020 the relevant regulations are the [Financial Markets Conduct Regulations 2014](#) (the **FMC Regulations**)

Standard conditions

Where we refer to full FAP licence standard conditions, this means the following conditions which will be effective on and from 15 March 2021:

1. **Recordkeeping**
2. Internal complaints process
3. Regulatory returns
4. Outsourcing
5. Business Continuity and technology systems
6. Ongoing requirements
7. Notification of material changes

STRUCTURE OF THIS WORKBOOK

This workbook is one from a series of workbooks. Each workbook will deal with one Standard Condition for full financial advice providers licences. There are seven Standard Conditions in total.

Section A – Standard Condition

Provides the actual wording of the standard condition of licensing with some commentary from Financial Markets Authority (FMA).

Section B – Examples of policy, process and controls

Provides examples of actions that evidence your obligations, with examples of practical policies, procedures and controls.

SECTION A – STANDARD LICENSING CONDITION

1. RECORD KEEPING

Condition:

You must create in a timely manner and maintain adequate records in relation to your financial advice service.

Your records:

- (a) must be kept in a form (which may be electronic) and manner that ensure the integrity of the information and enables it to be conveniently inspected and reviewed by us;
- (b) maybe in any language, providing that for records kept in a language other than English, if required by us, you provide in a timely manner a full translation of the record into English by a translator approved by us;
- (c) must be available for inspection by us at all reasonable times;
- (d) must be readily available to you, and in any event within 10 working days or as otherwise agreed by us when requested; and
- (e) must be kept for a period of at least 7 years from the later of:
 - the date the record is made; and
 - the date the financial advice to which the record relates is given; and
 - the date any later record is made that refers to or relies upon information in the record; and
 - the date of the conclusion of the life of the financial advice product that the financial advice relates to.

Explanatory note:

Records will be adequate if they clearly demonstrate (together with your systems, process and controls) how you, and any person engaged by you, and the regulated financial advice given to retail clients by you or on your behalf, met the requirements relating to financial advice and financial advice services in the FMC Act, FMC Regulations and the Code of Professional Conduct for Financial Advice Services.

Your records should include (without limitation):

- a record of all regulated financial advice given to retail clients, by you or on your behalf
- records relating to how you, and any person engaged by you, has complied with the financial advice duties.

Records available for inspection and review may be reviewed by us at your premises or elsewhere. For example, we may request copies of records and review these at our offices. Your arrangements must ensure that your retail clients consent to us viewing or obtaining your records.

Records may be kept by another person (including any outsource provider) on your behalf providing you ensure that person complies with this condition and that you can retrieve the records if required.

WHAT'S INCLUDED IN RECORD KEEPING?

A record of **all regulated financial advice given to retail clients by the FAP**. Including but not limited to:

- Financial advice
- Financial Advice reviews
- Disclosure provided to clients
- Complaints resolution information
- Continuing professional development

(Reference: *Financial Advice Provider Full Licence Guide v4– Page 25*)

Financial Advice : follow the six step advice process

- File Notes from your client meetings and conversations
- Client information (fact find documents)
- Goal and objectives that discussed with your clients
- Analysis of your client's situation
- Product comparisons where relevant
- Research around features and benefits, pricing or fees
- Recommendations – including suitability of your advice, benefits and any risks.
- Applications for Insurance, Mortgages, Investments.
- Continuous file notes.

Financial Advice Reviews

- Financial Advice reviews should include:
- Records of how and when you review your client's financial advice (annually or policy anniversary?)
- Updated client information recorded
- Is the advice still suitable or have there been material changes in their lives?
- Agreement that changes are needed or the advice is still suitable and relevant
- File notes that evidence your interactions with your clients and any actions taken
- Continuous file notes.

Tip on record keeping for financial advice.

The information needs to be documented in such a way that if **someone who did not know anything about the client, could read the documentation & understand** the client's background, their needs & how the advice provided meets their needs.

Be **detailed about what was discussed** with your clients in your notes or emails!



Disclosure provided to clients

Disclosure can be given in many forms including:

- Verbally
- Electronically
- In writing



With this in mind it is very important that you document your process around how you record and evidence that the relevant stages of disclosure have been provided to retail clients during the advice process.

Publicly available information – stage 1 disclosure.

Maintain your publicly available information to ensure it is updated at all times, including websites and any documents that are used to provide to clients for disclosure purposes.

Keep a register of when you updated your marketing material and version control of all documents that are provided to clients.

A good record keeping practice that can be evidenced in compliance reviews.

Nature and Scope of Advice – stage 2 disclosure

Keep a template with your disclosure detailed and update this regularly. (Version control and register)

Personalise this disclosure where required for each client during the advice process, & save on client file.

Add in additional questions to your meeting notes to cover that your client also understands the nature and scope of the advice. (431J Duty)

Remember this is not a tick box exercise to say they received it!

When advice is given – stage 3 disclosure

It's important to provide specific information to your client as advice is given (SOA) and record this on their file along with detailed notes from your meeting.

What was agreed to and accepted in relation to fees or expenses and method of payment with your client.

Disclosure of commission including amounts or value in relation to products recommended.

Conflicts of interest that are material to the financial advice you are giving, and

Duties information – my obligations and duties.

Identifying information – who gave the advice?

Complaints resolution information

When a complaint is received, the following information must be provided to the complainant:

- An overview of the **FAP's complaints handling process**; and
Prescribed information about the **FAP's disputes resolution scheme**.

Where are you recording this has been actioned?

In your CRM, complaints register, and client file?

Review your policy, process and controls – how you check that you are managing complaints in your FAP?

Continuing Professional Development

Full FAP Licensing question.

How does the FAP (and all persons providing retail financial advice) meets the **competency requirements** under the Code of Professional Conduct of Financial Advisers?

***Refer to Code of Professional Conduct for Financial Advice Services**

Part 2 Competence Knowledge and Skill

1. Professional Development Plan

Plan, record and review at least annually.

2. Your CPD register

Evidence and track what you have completed including:

- Training relevant to the advice strands that you provide
- Formal training and qualifications (Level 5 Cert FS)
- Ongoing product training
- Updates on regulation and legislation

This is not a limited list of important record keeping items.

You need to think about what else will form part of this requirement in your FAP.

If you have nominated representatives for example this would also need to be documented and managed in a policy, process and controlled environment for financial advice given by the FAP or on behalf of the FAP.

SECTION B – EXAMPLES OF POLICY PROCESS AND CONTROLS

Actions that demonstrate the standards have been met.

In this section we take the Record Keeping standard condition and list some examples of key actions that could demonstrate you are meeting your obligations.

Evidence

List actions taken regarding the standard licence conditions by putting doing the following:

1. **Develop Business Policies**
2. **Develop Procedures – tasks**
3. **Develop Controls – checks**

It is very important that your policies, processes, and controls are not too complex or complicated.

From the worked examples you will realise you already have many ‘policies, procedures, and controls’ – but you may need to work on building, adapting, articulating and documenting these to meet the Record Keeping standard condition.

The FMA review will likely be based on the evidence you supply – so it is vital your PPC’s are documented and accessible

1. Record keeping PPC example

1. Develop Policy statement

We will maintain, store and destroy records to comply with relevant legislation and regulatory requirements.

Guidelines

- Records are kept for 7 years from the time the client engagement ends.
- All client advice, documents and meeting notes are saved in our CRM and stored electronically in the cloud and regularly backed up.
- Information can be retrieved quickly and be provide to the FMA upon request as consented by clients during our onboarding process.

2. Develop Processes and Procedures (tasks)

- Client files that are no longer required are securely destroyed or removed from our system by a designated person in our FAP.
- All staff are trained on this policies and know how records are maintained, managed and stored to meet both privacy and security obligations.
- A designated person within the business checks records are stored securely, are safe and accessible at least annually.
- A designated person within the business checks that training has been completed for new staff and all staff training refreshed at least annually.

3. Develop Controls (check it is working)

A designated person within the business checks a random selection of client files for each Financial Adviser at least annually to ensure time frames as adhered to.

An external designated person or compliance officer checks (at least annually):

- the staff have been trained on the record keeping policy, by reviewing the **training registers** to see it has been tracked and completed.
- **Records have been reviewed** by the internal compliance officer and those not required have been properly destroyed and **documented in a register**.

The information provided in this workbook is for general information only and is not legal advice.

The source of information used in this workbook is based on 'Introductory guide to full licence requirements' - Version 4 published by Financial Markets Authority in April 2021 and the standard conditions for full financial advice provider licences. FMA Nov 2020.

Please refer to the information provided and seek advice in relation to meeting the standard conditions specifically for your Financial Advice Provider License.

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