

DISCLOSURE IN PRACTICE

- Relevant Code Standards
- Some key guidelines –form, manner and timing
- Disclosure and the Advice Process phases
- Disclosure 2 and 3 within the body of other documents
- Engagement Agreement Letter
- Implementation Letter/Plan
- Existing Clients – advice review



CODE OF PROFESSIONAL CONDUCT - PART 1

- **Standard 1 – Treat clients fairly**
 - communicate in a timely, clear and effective manner
 - not take advantage of lack of financial knowledge
 - not apply undue pressure
- **Standard 2 – Act with integrity**
 - describes themselves and their business
 - publishes and shares information with clients and the public
 - manages conflicts of interest
- **Standard 3 – Give Financial Advice that is suitable**
 - the nature and scope of the financial advice
- **Standard 4 – Ensure the client understands the Financial Advice**
 - whether the fees and costs related to the financial advice are acceptable
- **Standard 5 – Protect client information**

THE FOUR DISCLOSURES



FORM AND MANNER

- ✓ Must be presented in a clear, concise and effective manner
- ✓ Guidance – keep it succinct, to the point, without jargon and technical terms explained in plain English.
- ✓ If it is provided with other information the Disclosure components must be given prominence
- ✓ *Written disclosures must be in a format, font, and font size that is easily readable*
- ✓ Is provided free of charge
- ✓ Must not contain false or misleading information or contain information that is likely to mislead
- ✓ Must not omit any information required by the regulations



FORM AND MANNER

- ✓ Disclosures 2,3 and 4 can be verbal or written (if its verbal you still need to keep a record of it)
- ✓ If disclosure 2,3 or 4 is provided verbally a customer must be told it is available in writing on request
- ✓ If a customer requests the disclosure be provided in writing the request must be met
- ✓ Written disclosure can be done in text, email or letter form
- ✓ You can use a different manner for each disclosure type and for each advice service
- ✓ You can provide the disclosure (within the limitations) at the phase within the advice process when you judge it will achieve the disclosure purpose



NATURE AND SCOPE OF ADVICE

- The customer understands your service proposition
- You understand the 'broad' parameters of the customer situation
- The customer and you have agreed on the broad objectives and the process of how you will provide your advice service
- The customer and you have agreed on any limitations to your advice



Engagement Agreement Letter and Nature and Scope of Advice Disclosure is provided

ADDITIONAL POINTS

- Stage 2 and stage 3 disclosures can be made at the same time if it is appropriate for a simple advice service e.g. a medical insurance policy sale only
- Information does not have to be repeated if it has not materially changed
- Obligation to be 'brief' descriptions
- If disclosure 2 is included in the Engagement Agreement letter it needs to be able to be identified so that it is distinguished from non advice services
- No rule that requires the customer to sign Disclosures but you will need evidence you have provided them in whatever manner you provide them (record keeping tip)



WHEN ADVICE IS GIVEN

- The customer and you have agreed on the outcomes of Financial Risk Analysis (insurance types required and sums assured)
- The customer and you have agreed on the specific insurance recommendations (insurer and premiums)
- The customer and you have agreed on any outcomes from underwriting that affect the premium they pay



**Implementation Letter and When Advice is Given
Disclosure is provided**

ADDITIONAL POINTS

- **No 'brief' obligations**
- If information that was disclosed in the Nature and Scope of advice has **materially changed** when Advice is Given you should provide updated information with Disclosure 3. This could be an updated Disclosure 2 document or an explanation of the changes
- **Information does not have to be repeated** if it has not materially changed and was previously disclosed in Disclosure 2
- **Disclosure 3 can be included in another document** such as The Implementation Letter or the Risk Plan if you are making your actual recommendation in the Risk Plan
- You are not required to show what you will earn in commissions in the actual dollar terms, but you must comply with the requirement to be **clear, concise and effective**.
- If you use percentages only **it may not meet this test** as it relies on the customer having ability to calculate what you will get paid.
- **Best practice do both!**

