



NEW DISCLOSURE REQUIREMENTS

Member Guide

Financial Advice New Zealand

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Background

The Financial Markets Conduct (Regulated Advice Disclosure) Amendment Regulations will commence on 15th March 2021 when the new financial regime comes into force. The requirements apply to financial advice given to retail clients.

This document is a guide to how and when disclosure needs to be given from 15th March 2021.

Who can give disclosure


A Financial Advice Provider (FAP), a Financial Adviser or a Nominated Representative must provide disclosure to clients as suitable times during the financial advice service.

How disclosure is given

Disclosure can be given verbally, in writing or electronically (email/text message).



There are no set formats for the new disclosure requirement regulations (229C to 229G) as long as the following is applied.

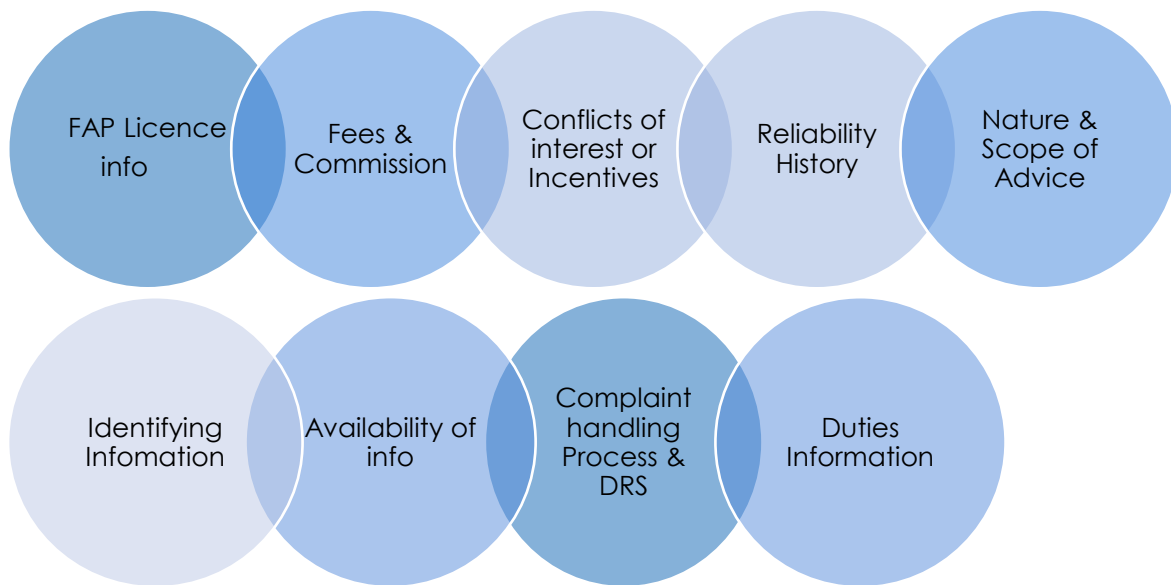
- is presented in a clear, concise and effective manner, and
- if it is presented with other information, is given prominence (websites for example) and
- if it's presented in writing, it is in a format, font and type size that's easily read and
- is made available or given free of charge. 

If disclosure is not given in writing (verbally) a client must be told that it can be provided in writing on request.

Stages of disclosure



What needs to be disclosed throughout the process



Publicly available information (reg 229C)



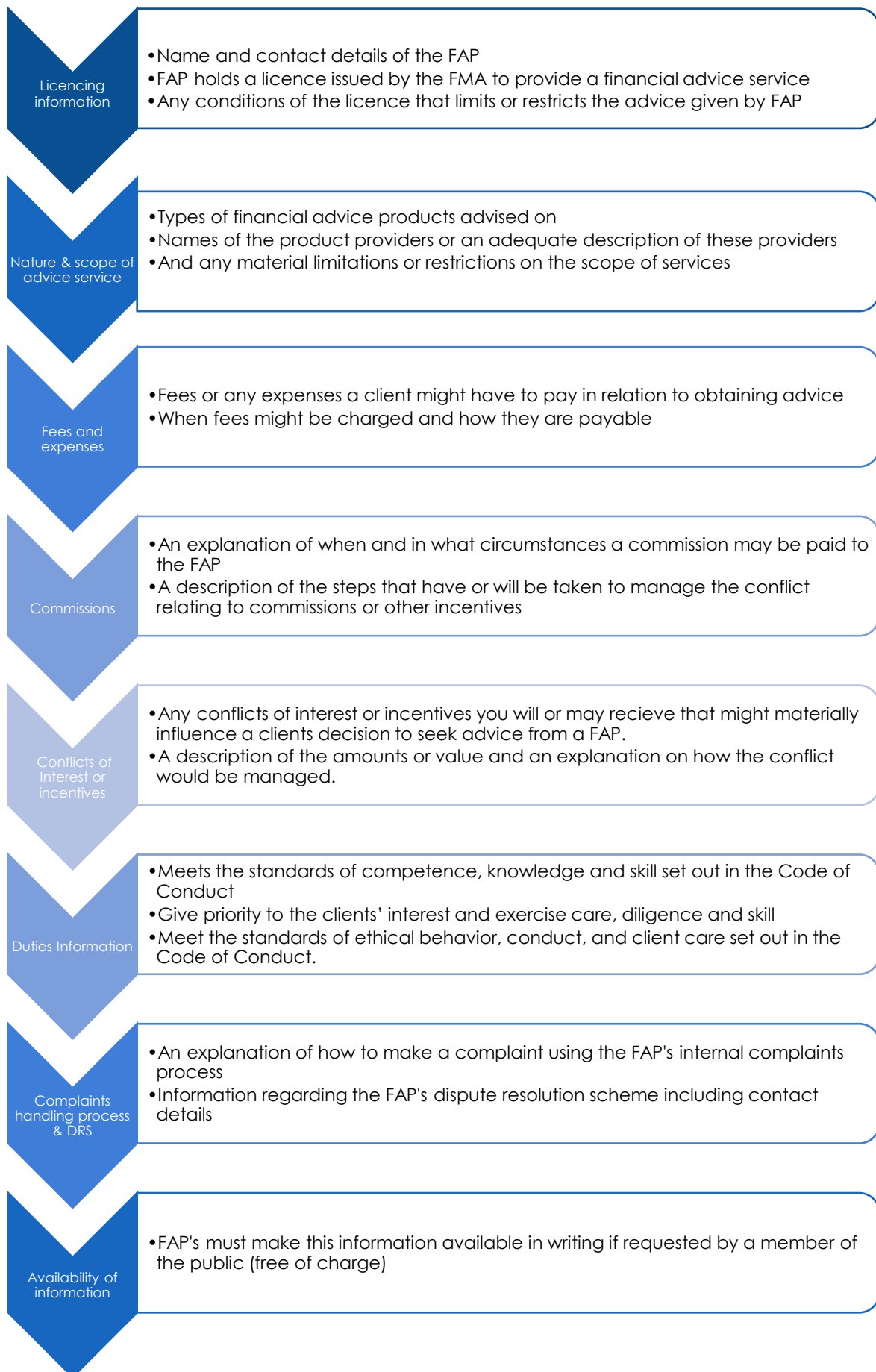
The purpose of the regulation is to help consumers find a financial advice provider that meets their needs.

A website or internet site maintained by a FAP would be the most common place that publicly available information would be found by consumers.



The information must be **prominently displayed** either on the home page or somewhere easily found on the site. It could also be via a link from the home page.

Ensure that the public can easily access this information at all reasonable times.



Example of disclosure - 'publicly available information'.

(This should appear on your website or be made available in a document)

Important information about our business

xxx is a Licensed Financial Advice Provider issued by the FMA to provide financial advice services. Financial Services Provider Number is xxxx.

Include any authorized bodies or nominated representatives' details if applicable to your FAP structure.

Our office contact details

Address:

Phone:

Email:

Website:

Nature and Scope of financial advice services *(edit the boxes below to include your services and products you give advice on and list the product providers)*

Our Services
<ul style="list-style-type: none">• Investments strategies (strategic asset allocation and investing)• Debt management (including borrowing for personal and investment purposes)• KiwiSaver investment strategies and retirement planning• Personal insurance
Products we can provide financial advice about:
<ul style="list-style-type: none">• KiwiSaver investments• Managed investments• Personal and group Insurance (life cover, disability, income protection and trauma)• Loans including mortgages, reverse mortgages and deposit bonds• Life investment products including whole of life, endowment and bonds
Product providers we might recommend (list all of these)
<ul style="list-style-type: none">• A
<ul style="list-style-type: none">• B
<ul style="list-style-type: none">• C
<ul style="list-style-type: none">• D
<ul style="list-style-type: none">• E

Our fees *(edit the wording below to what you charge if you charge fees)*

The actual fee charged to you will depend on the nature and scope of the advice or service we provide. We will discuss and agree the actual fees with you before we proceed and explain how they are payable.

The following section outlines the types of fees that may apply:

The fees charged for our advice and services may be based on a combination of: A set dollar amount; or a percentage - based fee.
--

Our agreed advice and service fees may include charges for:

Initial advice ongoing or annual advice and services.
--

Examples of known fees:

- | |
|---|
| <ul style="list-style-type: none">• <i>The fees charged for our advice and services may be based on an hourly rate</i>• <i>Clawback charges. (Insert here how you charge, when it's payable and how)</i> |
|---|

Other costs *(if applicable state these here)*

Where other costs are incurred in the process of providing our advice and services to you, you will be liable for these costs. However, we will agree all additional costs with you prior to incurring them.

Or

We don't charge our clients fees, expenses or anything else directly for the financial advice we provide.

Commission *(received by the FAP or AB)*

For services in relation to <i>insurance/ investments/ loan products</i> , commissions may be paid by the product provider as follows:
--

Initial commission - a percentage of the value of your investment contributions, loan balance or insurance premiums; and <i>(specify which services you are paid commission on here – you can state the percentage range)</i>

Ongoing commission - a percentage of the value of your investment balance, outstanding loan amount or premiums, usually calculated at the end of each month in which you hold the investment or loan, or on renewal of insurance products. <i>(specify which services you are paid commission on here)</i>
--

Financial Advisers - If you don't get paid commission on sales or any incentives you need to state that. For example, salaried financial advisers.

Conflicts of interest or other incentives

(add your known conflicts or incentives here if any)

We are here for our clients and to advise you as best we can. Your interests are our priority although we do have business relationships with product providers also.

(example only)

From time to time our product providers assist us with funding so we can bring our advisers together for conferences and professional development training.

(Discounted CRM, subsidized training for advisers or other non-monetary benefits.)

(Set targets or volume-based agreements or contracts with providers)

How we manage any conflicts of interest

To ensure our advisers prioritise our clients' interests :

- *We follow an advice process that ensures our recommendations are made appropriately, based on clients' goals and circumstances.*
- *All our advisers undergo annual training about how to manage conflicts of interest.*
- *We maintain registers of conflicts of interests and the gifts and incentives we receive. These registers are monitored regularly, and additional training is provided as required.*
- *We undertake an annual independent Compliance Assurance Review.*

Our duties and obligations to you

We are bound by the duties of the Financial Markets Conduct Act (431I, 431K, 431L and 431M) to:

- Meet the standards of competence, knowledge and skill set out in the Code of Conduct
- Give priority to the clients' interest and
- Exercise care, diligence and skill and
- Meet the standards of ethical behavior, conduct, and client care set out in the Code of Conduct.

Our Internal complaints process

If you have a problem, concern or complaint about any part of our advice or service, please tell us so that we can try to fix the problem.

Our internal complaints manager is Megan who can be reached via email at megan@xyzfs.co.nz or 03 123 123. Megan will reply to you within 24 hours.

Our internal complaints handling process is as follows:

Insert your complaints handling process or steps here.

- a
- b
- c

Our external complaints process

If we cannot agree on how to fix the issue, or if you decide not to use the internal complaints scheme, you can contact our external disputes resolution scheme – ABC services. This service will cost you nothing, and will help us resolve any disagreements.

You can contact ABC services at:

Address: PO Box 123 Wellington

Phone number: 04 123 123

Email address: info@abc.org.nz

Nature and scope of advice is known (reg 229D)

The purpose of this disclosure is to help consumers make an informed decision on whether to seek, obtain or act on advice from a person or provider.

This disclosure is given by the financial adviser who is giving the advice to the client on behalf of the FAP. To be given at the time when the nature and scope is known or as soon as practicable after afterwards.



Example of disclosure - 'nature and scope of advice is known'.

Thanks for meeting with me today to discuss your plans to buy a new home and find out more about what types of *personal insurances* could be beneficial to have.

We found out that *life insurance, income protection and mortgage insurance* were your priority right now. I will make specific recommendations for you and provide you with a detailed insurance proposal at our next meeting.

Any limitations around the advice that you are providing and why? (if any)

Here's more information about how I am paid for my services around *insurance advice*.

Commissions – Example 1.

Product	Commission paid to XYZFSL	Commission that I am paid (optional)
Insurance – Personal	100-200% of annual premium upfront and 20% of annual renewal premium	100-200% of annual premium upfront and 10% of annual renewal premium

Commissions – Example 2.

I will receive an upfront commission from the product issuer if you decide to buy a life risk insurance product I recommend to you. I will receive an upfront commission of between 100% and 200% of the first year's annual premium, and then an annual ongoing commission of 20% of the annual premium.

All commissions will be paid directly to XYZ Financial Services Ltd as the FAP licensee. XYZ Financial Services Ltd retain a percentage (as a licensee fee) to cover their costs and the balance is passed on to your Financial Adviser.

Fees – examples

This information is available on our website and in a document if requested.
(optional)

Or

No fees will be directly payable by you for this service as I will receive a commission from the product provider as disclosed above.

Or

Fees – examples

A fee for my financial advice will be charged as agreed and on the following basis:

A set for of \$5,000 for financial advice which will be payable at the time the Statement of advice is presented to you and prior to us implementing this advice.

Options for payment are direct credit, BPAY and other options detailed on our enclosed invoice.

(explain how you worked this out – flat fee, hourly rates estimated at x hours)

Conflicts of Interest or incentives. *(Insert these here if any or refer to our website or printed document)*

This information is available on our website and in a document if requested.

Your Financial Adviser

I, *YOUR NAME*, am providing advice on behalf of *XYZ Ltd* who is the Financial Advice Provider License holder. *123123*.

Contact details for XYZ Ltd

- Phone
- Email
- Address

Reliability History (state anything that is relevant here in your own words)

I, *your name*, have no relevant information to report. I have not been bankrupt or insolvent, have any convictions or been publicly disciplined.

Or for example

I was discharged from bankruptcy 4 years ago in Australia where I used to reside. This was due to a failed business venture with on online retail business.

Add what is relevant here that could materially influence a client on whether to seek advice from you.

Best to seek legal advice if you an unsure what is relevant here.

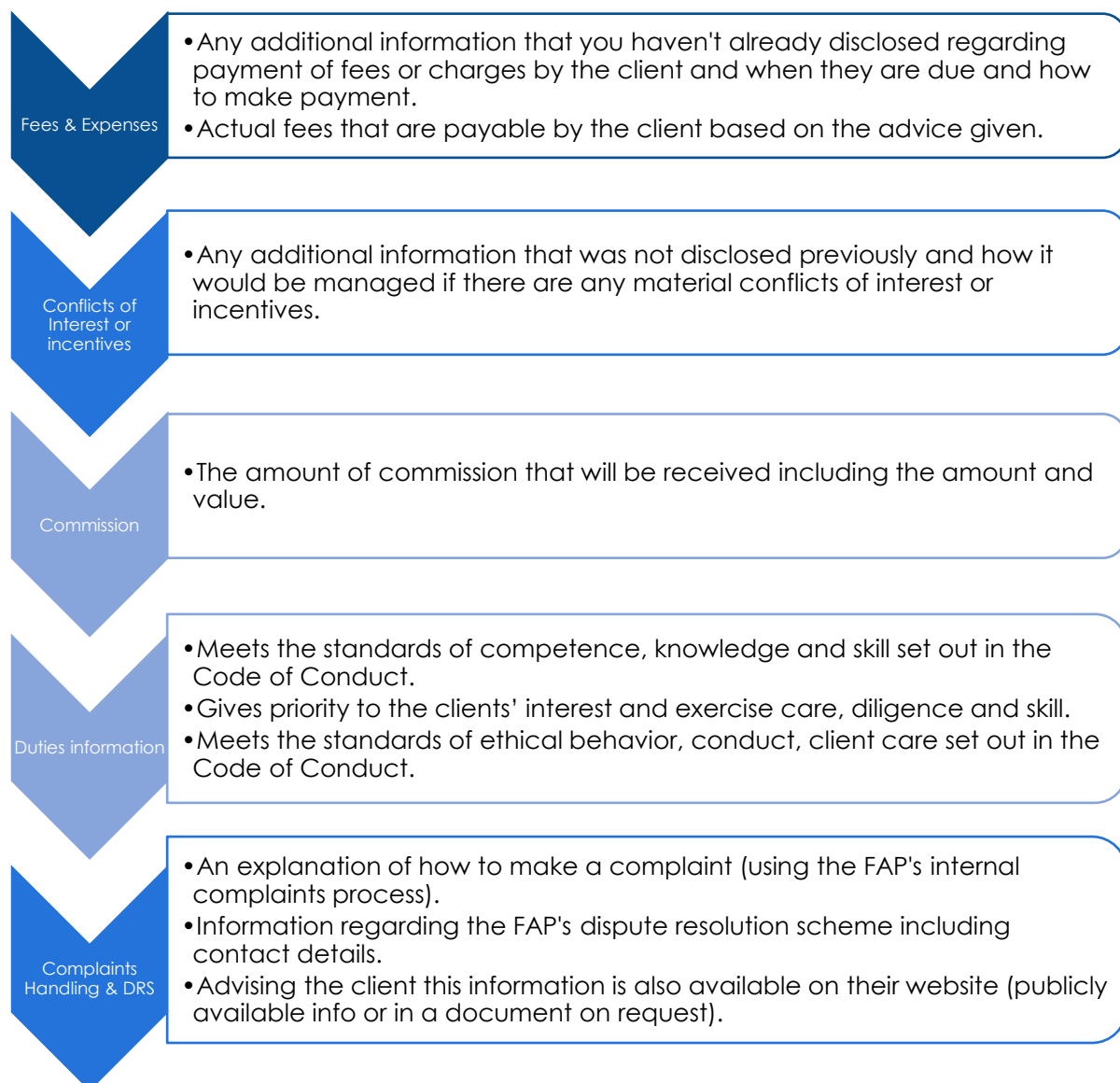
When advice is given (reg 229E)

The purpose of this disclosure is to help a client make an informed decision about whether to follow the advice that they have been given.

This disclosure is given by the financial adviser who is giving the advice to the client on behalf of the FAP. This disclosure must be given before or at the time the advice is given, or if it is not practicable to do so, soon after advice has been given.

There is some flexibility to combine the disclosure for 229D (Nature and Scope is known) and 229E (when advice is given) for a client in certain circumstances.

Providing consumers with relevant information at the right time is the key.



Example of disclosure - when the 'advice is given'.

We have recommended the following *life insurance/ income protection/ and mortgage insurance cover* to meet your needs as set out in this insurance proposal or statement of advice.

Recommended product and amount

Product	Amount insured	Annual premium
ABC Insurance Life Cover	\$1,000,000	\$2,000 per annum
ABC	\$5000 per month	\$3,000 per annum
Income Protection	Agreed value to age 65 Waiting period 60 days	
Total annual premium		\$5,000

Commissions we receive

All commissions will be paid directly to XYZ Ltd as the FAP licensee by the product provider (ABC). XYZ Financial Services Ltd retain a percentage (as a licensee fee) to cover their costs and the balance is passed on to me as your Financial Adviser.

Example

If you know the commission amount in percentages insert this. Dollar value is best practice.

Product & Provider	Commission paid to XYZFSL
ABC Insurance Life and Income Protection	200% of annual premium is paid upfront ($\$5,000 \times 200\% = \$10,000$) and 15% of annual renewal premium is paid at the policy anniversary date ($\$5,000 \times 15\% = \750)

Fees or expenses

Example.

Our service fee which we agreed at our initial meeting is now due to be paid as follows:

\$5,000 payable to XYZ Financial Services Ltd. Due by 30 December 2020 payment options outlined on the attached invoice.

Insert any other fees payable now or later that you know of.

Your Financial Adviser

I, *your name*, am a financial adviser (*FSPR111111*). I am providing advice on behalf of *XYZ Ltd* who is the Financial Advice Provider License holder. *123123*.

My Contact details are: (*Financial Adviser*)

- Phone
- Email
- Address

Duties information (*write in full or refer to your website*)

I, *your name*, am bound by the duties of the Financial Markets Conduct Act to:

1. Meet the standards of competence, knowledge and skill set out in the Code of Conduct
2. Give priority to the clients' interest and
3. Exercise care, diligence and skill and
4. Meet the standards of ethical behavior, conduct, and client care set out in the Code of Conduct.

Conflicts of interest or other incentives (*anything new that has not been given at previous stage*)

or

This information is available on our website and in a document if requested.

Our Internal complaints process

This information is available on our website and in a document if requested.

Or

If you have a problem, concern or complaint about any part of our advice or service, please tell us so that we can try to fix the problem.

Our internal complaints manager is *Megan* who can be reached via email at megan@xyzfs.co.nz or 03 123 123. Megan will reply to you within 24 hours.

The internal complaints process is:

We will review the complaint and discuss with you how we will resolve this and obtain any additional information if required

We aim to resolve our complaints in a timely manner and will indicate to you the time this complaint for take to resolve.

We will communicate with you in the method you prefer – phone, email or written.

If we cannot resolve this complaint in a manner which is acceptable then you can contact our free independent dispute resolution service.

Our external complaints process

If we cannot agree on how to fix the issue, or if you decide not to use the internal complaints scheme, you can contact our external disputes resolution scheme – [ABC services](#). This service will cost you nothing, and will help us resolve any disagreements.

You can contact ABC services at:

Address: PO Box 123 Wellington

Phone number: 04 123 123

Email address: info@abc.org.nz

When a complaint is made (reg 229F)

What is a complaint?

A complaint is an expression of dissatisfaction relating to the FAP's financial advice service to which a response or resolution is explicitly or implicitly expected (including any dissatisfaction with advice given by on the FAPs behalf).

The FAP must give the following information to the complainant-

- a) An overview of the FAP's internal complaints process and**
- b) Information about the FAP's dispute resolution scheme.**

Refer the client directly to your website as this information is available there at all times and it can be made available in a document at request.

The **information must be given no later than 2 working days** after a complaint is received or as soon as practicable after that time.

Remember that having a complaints process is a **standard licensing condition** for FAP's.

Example of disclosure for 'when a complaint is made'.

Our Internal complaints process

This information is available on our website and in a document if requested.

Or

If you have a problem, concern or complaint about any part of our advice or service, please tell us so that we can try to fix the problem.

Our internal complaints manager is *Megan* who can be reached via email at megan@xyzfs.co.nz or 03 123 123. Megan will reply to you within 24 hours.

The internal complaints process is:

- We will review the complaint and discuss with you how we will resolve this and obtain any additional information if required
- We aim to resolve our complaints in a timely manner and will indicate to you the time this complaint for take to resolve.
- We will communicate with you in the method you prefer – phone, email or written.

Our external complaints process

If we cannot agree on how to fix the issue, or if you decide not to use the internal complaints scheme, you can contact our external disputes resolution scheme – *ABC services*. This service will cost you nothing, and will help us resolve any disagreements.

You can contact ABC services at:

Address: PO Box 123 Wellington

Phone number: 04 123 123

Email address: info@abc.o

Further explanation of disclosure terms and meanings.

What is a reliability event?

If a person has been:

- **publicly disciplined** in last 5 years (FA Act or disciplinary committee)
- **convicted of Civil or criminal proceedings or regulatory action** (in NZ or overseas) in relation to financial markets legislation, overseas law that regulates the supply of any financial services, any dealing in financial products
- **convicted of a crime relating to dishonesty** in the past 5 years or
- **discharged of bankruptcy** (in NZ or overseas) in the 4 years before giving this advice

Conflicts of Interest

A Conflict of interest in relation to advice it means any interest of the client and FAP, with the giving of advice that a reasonable person would expect to, or be likely to **materially influence the advice given.**

- **Actual conflict** - a known conflict that exists
- **Potential conflict** - that might be about to happen or could happen
- **Perceived conflict** - where other people may reasonably think that a person is compromised.

A Material Change

Information is a **material change** under the regulations if a reasonable client would expect the change to, or be likely to, **materially influence** a decision about whether to seek or obtain advice from a particular person or provider or to act on the advice that they have been given.

If a client has been given disclosure previously and there has been a material change to that information, then updated information should be given or an explanation as to what has changed.

Record keeping

Remember that **record keeping is a standard condition** for Financial Advice Providers (FAP) Licence. A policy on how a FAP manages this is essential.

Consider Code Standard 2 (Act with Integrity)

Act with integrity at all times. This includes publishing & sharing information to the public about how you describe yourself and your business.

Schedule 21 A – summary of when disclosure is required.

	Publicly available	When nature and scope of advice is known	When advice given
Licensing information	✓		
Limitations on nature and scope of advice	✓ Types of products advised on, providers whose products are advised on other material limitations	✓ Types of products to be advised on, providers whose products will be advised on, other material limitations	
Fees	✓ When fees may be payable (if applicable)	✓ When fees may be payable and the amount (if known) or how calculated, terms of payment (if applicable)	✓ When fees may be payable and the amount (if known) or how calculated, terms of payment (if applicable) State if other fees may be payable in relation to acting on the advice
Commissions and other incentives	✓ When commissions or incentives may be given and how conflict managed (if applicable)	✓ When commissions or incentives may be given, amounts, and how conflict managed (if applicable)	✓ When commissions or incentives may be given, amounts, and how conflict managed (if applicable)
Other conflicts of interest	✓ Nature of any conflict and how conflict managed (if applicable)	✓ Nature of any conflict and how conflict managed (if applicable)	✓ Nature of any conflict and how conflict managed (if applicable)
Reliability (e.g. disciplinary) history		✓	
Complaints process / external dispute resolution scheme	✓		✓
Conduct and client care obligations	✓		✓
Identifying information		✓ Financial advisers to identify self, that is financial adviser, and giving advice on behalf of provider	

Disclaimer

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

The examples provided in this guide are to assist you develop your own templates or amend the ones you currently use to meet the regulations.

There are no prescribed templates for the new disclosure regulation.

Please refer to the regulations and seek advice from your compliance specialist in relation to how the regulations apply to you and your Financial Advice Provider.

*The source of the information is Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020.