

# Feedback: Proposed standard conditions for financial advice provider transitional licences

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Date: 25 July 2019

Number of pages: 4

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Organisation type: Industry Association

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Question number	Comment	Recommendation
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*You don't need to quote from the consultation document if you use page numbers.  
You may insert additional lines or pages - please label each additional page with your name & organisation.*

1	<p><i>We agree with having a licence condition related to record keeping but consider the requirement for <u>written</u> records is not flexible enough to recognise the various ways in which advice is provided and how this might be recorded. In particular, advice is often given over the telephone (particularly likely in the case of nominated representatives) and a recording of that phone call should be sufficient to meet a record keeping requirement. To require phone calls to be transcribed or file notes made for every call is unnecessary if the actual recording is available. It would also be impractical and disproportionately costly.</i></p> <p><i>There may be also be other examples, such as in relation to advice given in person by front line staff. With the availability of technology, it is conceivable that the staff member may make a voice memo recording of the advice given that can be saved as an electronic file rather than writing notes.</i></p> <p><i>We recognise the requirement for written records is based on the current Code of Professional Conduct for Authorised Financial Advisers ('AFA Code'), however, given the scope of entities subject to licensing under the new financial advice regime, it is important that different methods of providing advice are taken into account and we advocate that the requirements are technology neutral, which is</i></p>	<p><i>Amend the record keeping licence condition by replacing 'written records' with 'written or other electronic records', or similar.</i></p>
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	<i>consistent with a principles based approach. For the same scope related reason it is also important to recognise that the specific requirements in the current AFA Code don't apply to all the entities that will be licensed under the new regime.</i>	
2	<i>While ICNZ is not a financial advice business, we note our members keep different kinds of records including both written records (often electronic or digitised) and recordings of telephone conversations with customers etc.</i>	<i>Note comments.</i>
3	<i>We do not expect the proposed requirement will impose significant compliance costs on our members so long as the various types of records currently kept can be used (written records whether on paper, electronic or digitised and recordings of telephone conversations with customers etc.).</i>	<i>Note comments.</i>
4	<i>No specific comments further to those made in response to Questions 1-3.</i>	<i>Note comments.</i>
5	<i>No specific comments further to those made in response to Questions 1-3.</i>	<i>Note comments.</i>
6	<i>No further comments.</i>	<i>NA</i>
7	<p><i>We agree with including a proposed standard condition on internal complaints processes, but changes are required to the definition of 'complaint' in the Explanatory note to ensure it is workable and consistent with other requirements.</i></p> <p><i>We note the definition of 'complaint' used is from the current code of conduct for AFAs and is not in line with modern standards for complaints handling. There are two issues with the proposed definition:</i></p> <ul style="list-style-type: none"> <li><i>• it potentially treats a customer interaction that begins with a statement of dissatisfaction but is resolved on the spot as a complaint, when this is more sensibly considered a customer service issue as no further investigation or resolution is required; and</i></li> <li><i>• determining whether a complaint is, or is not, 'trivial or vexatious' is inherently subjective and could lead to inconsistent application across entities.</i></li> </ul> <p><i>Utilising this definition therefore risks both false positives and false negatives and inconsistent application. In recognition of these issues, in the</i></p>	<p><i>Replace the current definition of 'complaint' in the explanatory note for this proposed standard condition with the following:</i></p> <p><i>'A complaint is verbal or written advice that the customer is dissatisfied with your products or services, or the complaints handling process itself, and expects something to be done about it.'</i></p> <p><i>This should also be supported by commentary to indicate that a customer service issue resolved at first interaction/in the first instance is not a complaint.</i></p>

	<p><i>current Fair Insurance Code we use the following definition of complaint in paragraphs 40-41:</i></p> <p><i>'If we cannot put a customer service issue right for you, you can make a complaint.</i></p> <p><i>A complaint is an expression of dissatisfaction made to us related to our products or services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.'</i></p> <p><i>We note this definition in the Fair Insurance Code is very similar to the definitions in the standard ISO 10002: 2018 (Quality management — Customer satisfaction — Guidelines for complaints handling in organizations) and the Australian/New Zealand version (AS/NZ 10002:2014 — Guidelines for complaint management in organizations).</i></p> <p><i>As part of ensuring the Fair Insurance Code is written in plain language, we are subtly amending this aspect as follows in upcoming revisions to the Code:</i></p> <p><i>'If we can't put a customer service issue right for you, you can make a complaint.</i></p> <p><i>A complaint is verbal or written advice that you are dissatisfied with our products or services, or the complaints handling process itself, and you expect something to be done about it.'</i></p> <p><i>We recommend that the plain language version to be used in the upcoming Fair Insurance Code is adapted for the proposed standard condition on internal complaints processes.</i></p>	
8	<i>All ICNZ members, regardless of whether they will be licensed financial advice providers under the new regime, are required to have internal dispute resolution processes by virtue of the Fair Insurance Code.</i>	<i>Note comments.</i>
9	<i>No specific comments further to those made in response to Question 7.</i>	<i>NA</i>
10	<i>No comments.</i>	<i>NA</i>
11	<i>No comments.</i>	<i>NA</i>
12	<p><i>We note two further matters relevant to the proposed standard condition on internal complaints processes.</i></p> <p><i>In regard to the requirement that complaints are to be acknowledged/resolved 'as soon as practicable', we note the Fair Insurance Code provides specific requirements that apply to ICNZ members and which</i></p>	<i>Note comments.</i>

	<p><i>are detailed in paragraphs 43 and 44 of the current Code.</i></p> <p><i>We note the current AFA Code (Code Standard 11) also includes a requirement to refer to how to complain to external dispute resolution schemes.</i></p>	
<p><b>Feedback summary</b> – <i>if you wish to highlight anything in particular.</i></p>		
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<p><b>Thank you for your feedback – we appreciate your time and input.</b></p>		