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Exploring your Best Interest Duty In Practice

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Why Do Conflicts Exist?

Because They Work!!



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The Result?

Best Interest Duty



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The Consequence?

- It's personal
 - \$1,000,000



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The Impediments

- Remuneration
- Blinkered Advice Model
- Culture



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BID is Deceptively Simple

"the provider must act in the best interests of the client in relation to the advice."



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3 Key Words

- ***"RG 175.224: Consumers who seek financial advice expect that their adviser will act in their best interests and that, as a result, the advice provided will leave them in a better position.***

- ***RG 175.225: When assessing whether an advice provider has complied with the best interests duty, we will consider whether a reasonable advice provider would believe that the client is likely to be in a better position if the client follows the advice."***



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Session Outline

- Working groups of 10-12
- 4 Case Studies
- 10 minutes to identify what actions would meet Best Interest Duty and how they should be recorded
- 20 minutes to report back and compare to the Act
- Question – Can you meet the 7 Safe Harbour Steps with your current processes?



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Case Study 1 – Industry Super

- Elizabeth, age 71, semi-retired nurse, comes to you and says she is ready to retire permanently. She wants to have an income in retirement of \$36,000 pa and is eligible for a part Age Pension of \$16,000. She has \$350,000 in super in an industry super fund that does not have direct shares or binding nominations.
- She is divorced, with two adult children and three grandchildren (all to one of her children). The divorce was finalised over five years ago, but she still pays a jointly held private health insurance as this was the cheapest option for him.
- Elizabeth is a Balanced investor with an interest in the share market, but has never had the time or experience to dabble. She wants her super to go to her children and grandchildren when she dies.
- **You advise her to rollover her industry super to a wrap super account on your approved list to assist in meeting her goals.**



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Case Study 2 – Gearing

- Jeremy Matthews is a 45 year old IT Consultant earning \$200,000 pa. He is married, has three children under the age of 12 (all in school) and his wife is a part-time teacher on \$45,000 pa.
- They have paid out their home (valued at \$760,000) and after discussing their budget and lifestyle goals, have surplus income of \$60,000 pa.
- Their main concern now is building a portfolio of passive income and reducing Jeremy's tax bill. They have little to no experience in shares and their home is the only property they have ever owned.
- **You recommend a gearing strategy using the equity in their home to purchase an investment property and a small portfolio of fully franked shares, along with a savings plan to build that further over time.**



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Case Study 3 – Insurance

- Your client Leslie Canonbury is 42, divorced with no children and earning \$130,000 pa plus super. She put a financial plan in place with you when she started her new life and currently has Death, TPD, Trauma and IP in place through linked super and non-super accounts.
- You review this with her annually as part of your service offering and look to ensure she retains sufficient cover to meet her goals.
- **As part of this review you advise that she changes her existing structure to a new product, although it is only two years since she took out the current portfolio.**

This involves writing a new policy and you receive a commission for this.



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Case Study 4 – Changing APL's

- You have recently had a change of Licensee and find that the main platform you have used in the past is no longer on your APL.
- Your Business Development Manager has instructed you to write all new SoA's to your clients, moving them to the Licensee's own platform.
- As you consider your client base, you realise that for some of your clients, it is not in their best interest to move to the Licensee platform.
- **Do you seek one-off approval to keep your existing platform for those clients affected?**
- **Do you consider other non APL platforms that may offer a better alternative?**
- **Do you approach your Licensee about adding other platforms to the APL?**



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Summary

- Case Study 1
- Case Study 2
- Case Study 3
- Case Study 4

- Use of 7 Safe Harbour Steps
- Processes within your Practice and within your Licensee
- Your responsibilities, to your clients and to yourself

- Any questions?



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Case Study 1 – Industry Super

- You advise her to rollover her industry super to a wrap super account on your approved list to assist in meeting her goals.
- Have you clearly defined her goals?
- Are they **SMART** and documented?
- Have you done a comparison analysis with external research provider of her existing fund and two alternatives to ensure that your recommendation adequately meets ALL her goals?
- Is that comparison **documented** in your file and the SoA?



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Case Study 2 – Gearing

- You recommend a gearing strategy using the equity in their home to purchase an investment property and a small portfolio of fully franked shares, along with a savings plan to build that further over time.
- Do they need to gear?
- Have you done a Gap analysis and what other levers can they pull to fill the Gap?
- How well do you really know the client?
- Are your assumptions realistic?
- Risk profile, free cashflow, time frame?



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Case Study 3 – Insurance

- As part of this review you advise that she changes her existing structure to a new product, although it is only two years since she took out the current portfolio. This involves writing a new policy and you receive a commission for this.
- What has changed? Is it captured in the Fact Find and File noted?
- How do you explain your fees? FDS? FSG? SoA?
- Insurance Policy documented?
- Have you demonstrated how the recommended change meets her changing needs at this time in her life in both your notes and the SoA?
- If you feel **conflicted**, consider **changing** your method to ensure BID.



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Case Study 4 – Changing APL's

- Do you seek one-off approval to keep your existing platform for those clients affected?
- Do you consider other non APL platforms that may offer a better alternative?
- Do you approach your Licensee about adding other platforms to the APL?
- What is they say no. Have you chosen the right AFSL?
- If there was no conflict, would you make the switch?



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Record Keeping

- Prove you have satisfied BID
- The reasons why advice is appropriate
 - How conflicts have been managed
 - Verbal discussions summarised by email (your file note)



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Questions?



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