

QoN 010-21 – Regulatory guidance on licensee monitoring of agreed services

Can you please advise what regulatory guidance ASIC has provided in the past, and when, with respect to a licensee's requirements to monitor the provision of agreed services (i.e. 'fee for no service') and what should happen when services are not provided, including where a client declines to have an annual review?

Answer:

ASIC has issued:

- Information Sheet 232 (INFO 232) *Fees for no service: remediation* in August 2018; and
- Regulatory Guide 256 *Client review and remediation conducted by advice licensees* in September 2016 (RG 256). (ASIC is currently consulting on an update to RG 256: see Consultation Paper 335 *Consumer Remediation: Update to RG 256* (CP 335)).

Regarding what should happen when services are not provided, INFO 232 states:

An AFS licensee should review the terms of its ongoing service arrangements with clients to determine what services the client was charged for. In conducting the review and remediation program, the licensee must act efficiently, honestly and fairly, and should take a client-focused approach.

What should happen when a client declines to have an annual review depends on what services the client's ongoing agreement included. INFO 232 does not explicitly address a scenario where a client declines to have an annual review. However, in March 2019, ASIC issued 'report cards' in MR [\[19-051MR\]](#) on the 'fees for no service' reviews being conducted by the major banks and AMP. The report cards stated ASIC's view that if agreements entitled customers to an annual review, and the customer had declined the annual review in consecutive years, a customer-centric approach would involve refunding some fees because consecutive declines may indicate that the ongoing service arrangement is unsuitable for the customer.