File Review Training

Hand out slide packs

Good morning and welcome

Introductions

Focus on file review toolkit but also:
  • Process issues
  • Specialists
  • Sign off process

Interactive:
  • Questions at any time
  • Case study - use throughout the day (you have done a file review in the new format)
    • How long did the case study take?
Objectives

1. Understand the framework for undertaking file reviews

2. Understand how to undertake an outcomes-focused file review

3. Be able to complete a file review
Agenda

**Day 1**

1. Intro / Scope
2. Tool Navigation
   - File review basics:
     - The 4 rules
     - Results
3. Additional scenarios:
   - Pension freedoms
   - Insistent client
   - Nature of service
4. Suitability assessment

**Day 2**

6. Disclosure assessment
7. Process failings
8. Hints & tips
9. Specialists, sign-off
10. File review practicalities

**Day 1:**

09.30 – 09.45: (Intro / Scope)
09.45 – 10.05: (Navigation)
10:05 – 10:40: (Four rules, results)
10:40 – 11:00: coffee break
11.00 – 11.45: (Pension freedoms, insistent client, nature/extent of service)
11.45 – 12.30: (Suitability 1 – Assessments)
12.30 – 13.30: lunch (can over-run in morning by 15 mins and still restart at 1.00)
13.30 – 14.15: (Suitability 1 – Case study)
14.15 – 15.00: (Suitability 2 – Assessment)
15.00 – 15.20: coffee break
15.20 – 16.00: (Suitability 2 – Case study)

**Day 2:**

09.30 – 11.00: (Disclosure – Assessment & case study)
11.00 – 11.20: coffee break
11.20 – 12.00: (hints and tips, results, specialists, sign off, process issues)
Scope

The toolkit assesses the suitability and disclosure of investment advice. It includes guidance on the following areas:

- Pensions: individual personal pensions, stakeholder and SIPPs – advised sales of regular and single contribution pensions (including pension switches)
- OEICS/Unit Trust/UCITS (single and regular premium)
- ISAs
- Investment bonds
- Portfolios of investments (advised, not where ‘managing investments’)
- Cases where the investments are held on a platform
- Encashments, IFPLS etc

- Can also cover investment trusts, ETPs, EIS, VCTs etc although specialist input may be required

It does not include guidance on:
- Drawdown
- Occupational pension scheme transfers
- Group schemes
- Discretionary fund management (see different tool)
The Assessment Tool:
A Quick Tour

[Open tool and navigate around worksheets and questions]
Basics
Rule 1

**Outcome not process**

- Purist assessment of suitability and disclosure
- Suitability:
  - has the client ended up with the right solution?
- Disclosure:
  - Have the required disclosures been made and is the client likely to understand (i.e., are the communications clear, fair and not misleading?)

7 Financial Conduct Authority
Rule 2

Evidence-based

- Positive judgements based on evidence
  - **Unsuitable**: positive reason for believing advice unsuitable
  - **Unclear**: not enough evidence to decide
  - **Suitable**: enough evidence to be clear client has got the right advice

- **Unacceptable**: rule breach including material breach of P7/COBS 4 (clear, fair and not misleading)
- **Uncertain**: Some disclosure material not provided for review
- **Acceptable**: no mandatory breaches

Evidence findings – robust enough for challenge
Rule 4

Keep it balanced

- Balanced judgement
- Balanced comments
Results

- Recording comments

- Final rating
Results examples 1a

"I’ve rated this as unsuitable as there were exit penalties from the previous scheme and it’s not clear whether these additional costs are justified"
Results examples 1b

Good practice

"There was an exit penalty of 5% and initial costs of 2% and given the term to retirement was only 5 years and the client was cautious, I do not think the switch was suitable as the new contract is very unlikely to outperform and offset these costs. In addition, the existing scheme had other funds that could be used which were better and more suited to the client’s objectives and risk profile and hence an internal switch would have been in the client’s best interests."

Financial Conduct Authority,

Good practice is explicit that you feel the outcome is the wrong one for the client and evidences what would have been the right outcome.
Results examples 2a

"I've rated this as unsuitable as the risk level of the investment does not match the client's ATR and term of investment. There were also problems around the additional costs being incurred by the new scheme"
Results examples 2b

Good practice
"I've rated this as unsuitable as the risk level of the investment does not match the client's risk profile. The answers to the risk profiling questionnaire clearly indicate this is a cautious client and this is supported by the client's existing investments. The fund recommended meets the firm's definition of medium risk.

It is also unclear in relation to additional costs - the existing fund appears to be meeting the client's needs and objectives and it is unclear what additional benefits the additional costs bring"
Coffee break
Pension freedoms 1

Compromises
  • No perfect solution

Suitable not most suitable
  • But absence of demonstrably better option

Pensions - not just for retirement income

Freedom and choice
  • Don't be judgemental about a client's objectives
Pension freedoms 2

Objectives
- Clients can be irrational
- But based on factual information
- Other objectives

Tax

Debt

Disclosure
Pension freedoms - example 1

- Client has £30,000 pension fund
- Wants to encash £15,000 to buy a classic Mazda MX5 sports car

- Adviser recommends cashing in part of the pension to meet this objective whilst clearly setting out the risks. The adviser also establishes the level of income available to the client in retirement – from state and the remaining pension – and this is assessed against the client’s income needs (and is sufficient albeit tight)

Financial Conduct Authority
Pension freedoms - example 2

- Client is 60, earning £18,000 pa and is due to retire at 65
- He has credit card debts of £1,000 and wishes to clear these and also renew his vows and have a second honeymoon in Mauritius all of which adds up to £14,000
- Has a pension of £56,000 which he is not contributing to. This is his only pension
- Adviser recommends he takes the 25% PCLS and put the remainder in drawdown with no income. The risks are clearly set out
Pension freedoms – example 3

• Similar scenario to example 2 but instead of paying off credit cards, renewing vows and having a second honeymoon, the client wants to use the £14,000 to take a holiday to Las Vegas and have lots of money for gambling
Pension freedoms – example 4

- Client 59, retiring at 65
- Lives comfortably off his income + spare cash each month
- Member of an employer DC scheme (no early encashments allowed)
- Preserved DB pension scheme with a CETV of £150,000
- He wants to release £20,000 to fund his only grand-child through university
- DB scheme does not allow part encashments
- Cautious risk profile
- Client says getting the best pension income is important but prepared to compromise on this as he also has his current employer’s DC pension and releasing the £20,000 is also an important objective.

- Adviser recommends DB transfer to drawdown, take £20,000 as PCLS with the rest accumulating (no income)
- TVAS indicates a critical yield of 7.2%. Risks clearly set out
Insistent Clients

Three Steps
1. Give a suitable recommendation
2. Clearly explain the risks of the alternative course of action
3. Flag that the client is acting against advice
Nature and extent of the service

Gradations of personal recommendations

- Holistic
- Focused
- Simplified/streamlined
Suitability Assessment

[Open tool and navigate around worksheets and questions]
Suitability - introduction

- Focus on outcome and whether it is suitable for the client.
- Distinct from Disclosure test – Poor disclosure does not automatically result in unsuitable advice
- Tests against 7 generic investment measures
- Additional measures for:
  - replacement business; and
  - pension accumulation.
Generic investment measures 1

1. The client has been recommended a solution that does not match their timescales, taking into account their specific circumstances
   - Access requirements?
   - Planned upcoming expenditure?
   - Age & state of health

2. The client has been recommended a solution that does not match their financial circumstances.
   - Unsecured debt
   - Emergency fund
   - Affordability of on-going contributions
Generic investment measures 2

3. The client has been recommended a solution that does not match their needs/objectives
   - Does the advice meet any specific client needs (e.g. for a guarantee or an income)?
   - Pension Freedoms

4. The client has incurred additional costs without good reason
   - Answer N/A for replacement business
   - View alongside the client's needs and objectives
   - RIY / TER-figures
   - Excessive costs?
   - Lower cost alternatives (e.g. stakeholder, investing direct as opposed to via a platform)?
   - Client paying for unrequired functionality (e.g. SIPPs / Platforms)?
Generic investment measures 3

5. **The client has been recommended a solution where there is a need for on-going reviews but this is not explained, offered or put in place**
   - Asset allocation strategy

6. **The client has been recommend a solution that does not take into account their tax position**
   - ISA allowance
   - CGT allowance
   - Did the selection of product / tax wrapper take into account the client's tax status?
   - Does the selected product / tax wrapper impact on any means tested benefits?
Lunch
Case study: Generic investment measures

The client has been recommended a solution:
1. that does not match their timescales, taking into account their specific circumstances?
2. that does not match their financial circumstances?
3. that does not match their needs/objectives?
4. where there is a need for ongoing reviews but this is not explained, offered or put in place
5. that does not take into account their tax position

- 20 to 25 minute session
- 10 minutes for the tables to discuss and agree how they would rate each of the 5 outcomes already discussed.
  - NOTE – Delegates do not need to discuss the "cost" outcome as replacement business case and will be discussed later.
- So delegates considering:
  - Timescale
  - Financial circumstances
  - Specific needs & objectives
  - On-going review
  - Tax wrapper
- 10 to 15 minutes feedback and discussion.
  - 
Refer back to rules 1 - 4
1. Outcome not process
   - Has the client ended up with the right solution?

2. Evidence-based
   - Positive judgements based on evidence
     - Unsuitable: positive reason for believing advice unsuitable
     - Unclear: not enough evidence to decide
     - Suitable: enough evidence to be clear client has got the right advice
4. Keep it balanced
Risk profiling

The client has been exposed to a level of risk that they are not willing and able to take

- FG11/5
- Robust assessment of risk tolerance?
- Consideration of capacity for loss?
- Alignment of recommendation to risk profile?
- Consideration of client's knowledge and experience?
- Other factors
Replacement business

1. The client has been recommended a solution that is more expensive than their existing one – or they have incurred costs – without good reason
   - Consider all cost factors
   - Rationale for replacement – why doesn’t the existing solution meet the client’s needs & objectives.
   - Increased returns - consider additional costs and prospect of improved performance.

2. The client has lost guarantees or other benefits or has incurred a tax/exit charge without good reason
   - Loss of valuable guarantees? (e.g. capital guarantees, GARs)
   - Unnecessary tax/exit charge on encashment? (Could it have been mitigated)
   - DB Pension transfers
Adviser charging costs

Initial adviser charges
- Contingent - include in costs comparison as only applies on switch
- Non-contingent - don’t include as payable whether switch or not

Ongoing adviser charges
- Usually don’t include as for services
- Possible adjustment depending on solution

High adviser charges
- So long as adviser charges disclosed clearly then normally up to client to agree/decline and not a suitability issue
- Exception: self-defeating transactions
Pension accumulation

1. The client has opted out of an employer sponsored pension scheme without good reason
   - Would it have been in the client's best interest to invest in an employer sponsored scheme instead?
   - "Unclear" where the adviser has not researched, and it is not clear from the file, whether an employer scheme is available.
Coffee break
Case study: risk profiling & replacement business

1. The client has been exposed to a level of risk that they are not willing and able to take
2. The client has been recommended a solution that is more expensive than their existing one – or they have incurred costs – without good reason
3. The client has lost guarantees or other benefits, or has incurred a tax/exit charge, without good reason

- 20 to 25 minute session
- 10 minutes for the tables to discuss and agree how they would rate each of the 3 outcomes discussed in last session.
  - NOTE – Delegates do not need to discuss the "pension acc" outcome as not relevant.
- So delegates considering:
  - Risk profile
  - Additional cost (wrapper)
  - Unnecessary tax/exit charges.
- 10 to 15 minutes feedback and discussion.
- Xref Model answer.

- Refer back to rules 1 - 4.
1. Outcome review process
   - Has the client ended up with the right solution?

2. Evidence-based
   - Positive judgements based on evidence
     - Unsuitable: positive reason for believing advice unsuitable
     - Unclear: not enough evidence to decide
     - Suitable: enough evidence to be clear client has got the right advice
4. Keep it balanced
Case study: overall suitability rating
End of day 1
Disclosure Assessment

[Open tool and navigate around worksheets and questions]
Disclosure

1. Initial Disclosure: The firm has not provided the client with the appropriate and compliant generic initial disclosure about the firm’s services and adviser charges and hence the client is unable to make an informed decision about the services and costs being offered.

2. Specific Disclosure: The firm has not provided the client with the appropriate and compliant specific disclosure about the adviser charges relevant to the individual client and hence the client is unable to make an informed decision about the services and costs being offered.

3. Product Disclosure: The firm has not provided the client with the necessary product disclosure and hence the client is unable to make an informed decision about the product being offered.

4. Suitability Report: The client has been provided with a suitability report which doesn’t allow them to make an informed decision about the investment.

5. Other: The client has been provided with other relevant information that is not clear and fair or is misleading.

41 Financial Conduct Authority
Generic initial disclosure

1. There is evidence to show the firm have not provided the client with the initial disclosure required
2. The information has not been provided in good time
3. The disclosure of the charging structure is not clear and in plain language
   • % then cash terms example
   • Hourly then No. hours for each service
   • Avoid wide ranges
4. The firm’s scope of service is not clearly disclosed
5. The disclosure of the services is not compliant
Specific disclosure of adviser charges

1. There is evidence to show the firm have not provided the client with the specific disclosure required
2. The information has not been provided as early as practicable
   • Before chargeable work starts
   • SR/KFI compliant if contingent charging
   • Later if subject to market values
3. The disclosure of the specific adviser charges is not compliant
   • Cash terms
4. The client is being provided with ongoing services but it is not clear what the ongoing services will be
Product disclosure

1. There is evidence the key features document (KFD), simplified prospectus (SP) or key investor information document (KIID) has not been provided to the client.
2. A key features illustration was required but there is evidence this was not provided to the client.
3. A platform has been recommended but the charges have not been clearly disclosed to the client.
4. The information has not been provided to the client in good time.
Suitability report

1. Demands and needs

2. Why suitable

3. Disadvantages
Other

1. Oral evidence

2. Insistent clients: risks of alternative course of action

3. Other info unclear, unfair or misleading

4. Other info at inappropriate time
Case Study: Disclosure

1. **Initial Disclosure:** The firm has not provided the client with the appropriate and compliant **generic** initial disclosure about the firm's services and adviser charges and hence the client is unable to make an informed decision about the services and costs being offered.

2. **Specific Disclosure:** The firm has not provided the client with the appropriate and compliant **specific** disclosure about the adviser charges relevant to the individual client and hence the client is unable to make an informed decision about the services and costs being offered.

3. **Product Disclosure:** The firm has not provided the client with the necessary product disclosure and hence the client is unable to make an informed decision about the product being offered.

4. **Suitability Report:** The client has been provided with a suitability report which doesn't allow them to make an informed decision about the investment.

5. **Other:** The client has been provided with other relevant information that is not clear and fair or is misleading.

---

Financial Conduct Authority
Coffee break
Process notes and good practice

Good practice

- Going beyond Rules and guidance

- Particularly effective application of Rules and guidance
Process issues

Know your client
Risk profile
Capacity for loss
Knowledge and experience
Objectives
Suitability report
Sequence
Other
Hints and tips

Review order

Familiarity with tool layout

Focused reading
Specialists, sign off

Specialists
- All assessors will have a specialist allocated to them for support, questions
- Specialists are experienced file reviewers with an appropriate level 4 qualification

Sign-off
- Initially all assessments
- Minimum of the first four cases
- Sign-off if no significant issues arising from the first four reviews
File review practicalities

- Visit Lead responsibilities

- Reviewing files on-site
  - Tool can be used on-site
  - Save copy to desk-top
  - Always save to Livelink on return

- Sampling
  - Random or risk based
  - Think about sample size – OVER SAMPLE

- Firm feedback
  - Letter – High level
  - Annex – Detailed
Contacts
Questions?