



Fees for no service

Still a hot topic

Rachel Erlich

One of the significant findings from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission) was that Australians were being charged ‘fees for no service’. That is, Australians were being charged ongoing advice fees where no advice was actually provided to the client—with those fees often being charged invisibly by being deducted from the client’s accounts or superannuation accounts. And this conduct was widespread.

Commissioner Kenneth Hayne noted that by August 2018, Australian Financial Services (AFS) licence holders had paid approximately \$260 million in compensation to clients, including interest on the amount of earnings lost. It was estimated at that time, that the total compensation to be paid in relation to ‘fees for no service’ was approximately \$850 million.^[1]

In March 2023, the Australian Securities and Investments Commission (ASIC) reported that six of Australia’s largest banking and financial services institutions had paid or offered a total of \$4.7 billion in compensation to customers who suffered loss or detriment because of fees for no service misconduct or non-compliant advice.^[2]

Commissioner Hayne noted that there were many reasons why a client could not receive the promised services, including:

- that the adviser linked to the client was no longer linked to the client
- the adviser may have left the licensee

- the adviser may have had too many assigned clients to be able to service them all, or
- the client may have died.

Commissioner Hayne also observed that, in many cases, the fees were charged without the AFS licensee knowing or asking whether the services had been provided to the client and, in many cases, where the licensee’s records showed that the services could not be provided. Commissioner Hayne also noted that in circumstances where there was no linked adviser, the licensee kept the fees charged for itself.^[3]

During the Royal Commission’s hearings, some people who gave evidence suggested that the fees for no service issue came about because of a series of ‘processing errors’ or ‘poor systems and carelessness’.

In response, Commission Hayne stated:

I cannot and do not accept this ... The amounts of money that ‘just fell into the pockets’ of so many large and sophisticated financial entities, the number of times it happened, and the many years over which it happened, show that it cannot be swept aside as no more than bumbling incompetence or the product of poor computer systems.^[4]

To address the ‘fees for no service’ issue going forward, Commissioner Hayne recommended a change to the law be made so that ongoing fee arrangements:^[5]

- must be reviewed annually by the client
- must record in writing each year the services that the client will be entitled to receive and the total of the fees that are to be charged
- may neither permit nor require payment of fees from any account held for or on behalf of the client except on the client’s express

written authority to the entity that conducts that account given at, or immediately after, the latest renewal of the ongoing fee arrangement.

This recommendation was adopted by the government with the new ongoing fee arrangements regime commencing on 1 July 2021.

In relation to the deduction of advice fees from superannuation accounts, Commissioner Hayne stated:

It follows that the nature of the advice that may properly be paid for from a superannuation account is limited to advice about particular actual or intended superannuation investments.....it would not include broad advice on how the member might best provide for their retirement or maximise their wealth generally. Any practice by trustees of allowing fees for these latter kinds of financial advice to be deducted from superannuation accounts must end. As (in my view) this is what the law already requires, no further amendment is necessary.^[6]

Commissioner Hayne did, however, recommend that:

- the deduction of any advice fee (other than for intra-fund advice*) from a MySuper account be prohibited,^[7] and
- the deduction of any advice fee (other than for intra-fund advice) from superannuation accounts other than MySuper accounts be prohibited unless the requirements about annual reviews, prior written identification of service and provision of the client's written authority set out in *Recommendation 2.1* in connection with ongoing fee arrangements are met.^[8]

These recommendations were adopted by the government, with legislation being passed by Parliament in 2020.

Intra-fund advice*

Intra-fund advice generally refers to limited or scaled personal advice that a superannuation trustee can provide to a member about their superannuation account without an additional fee being charged to the individual member.

The cost is typically covered by the collective administration fees paid by all members of the fund. Intra-fund advice is generally limited to advice about a member's interest within the existing fund, such as investment options, insurance arrangements or contributions, rather than broader financial advice or switching to another superannuation fund.

Source: ASIC, 'Clarifying intra-fund advice'^[11]

Following the Royal Commission, ASIC commenced proceedings against some licensees for breaches relating to 'fees for no service'. One such example is the proceedings commenced by ASIC in May 2021 against five AMP companies. In May 2023, the Federal Court in *Australian Securities and Investments Commission v AMP Superannuation Limited* [2023] FCA 488^[9], found that

four AMP companies breached the law when charging life insurance premiums and advice fees from the superannuation accounts of more than 2,000 deceased customers. The court ordered two of the companies to pay a combined penalty of \$24 million for the breaches and publish a written adverse publicity notice [i.e., an order to, at their own expense, publish a written notice in the way and in the terms set out in the court's order].

It is clear from the judgment in this matter that a licensee's systems must be robust and that great care must be taken to avoid any situation in which a fee is charged for the provision of financial services in circumstances where the licensee will be unable to provide those services.

During and following the Royal Commission, many financial service firms made improvements to their systems and controls to put measures in place to prevent 'fees for no service' conduct from occurring. While that is commendable, the issue continues to arise.

As recently as October 2025, a former director of a licensee was banned for two years from performing any function involved in carrying on a financial services business or controlling an entity that carries on a financial services business. This occurred because of the licensee's failure to address the 'fee for no service' conduct of its authorised representative.^[10]

In this case, the licensee's authorised representative:

- charged 14 clients for services that were not provided between January 2022 and October 2023
- failed to report the 'fees for no service' conduct, and
- did not refund the fees to clients as required.

Among other things, ASIC considered that the former director of the licensee did not take proactive steps to ensure the licensee complied with its obligations to report 'fees for no service' conduct as a reportable situation in a timely manner (the report was lodged six months after, and not within 30 days of becoming aware of the 'fee for no service' conduct)—and did not take adequate steps to confirm the 'fees for no service' issue was properly investigated or that clients were remediated.

Notably, Treasury is currently consulting^[12] on several changes in response to the collapse of the Shield and First Guardian Funds**, including changes to advice fee deductions for superannuation switching advice.

Options for consultation

Treasury has put forward options for consultation. Under the first option advice fee deductions would be prevented if the advice recommends that a client switch superannuation funds. Under the second option explicit obligations would be codified for the receiving superannuation fund in relation to deducting fees for personal financial advice. Under the first option, trustees would not be permitted to allow advice-fee deductions where the associated statement of advice recommended a switch. Advisers would be required to disclose to the member of the fund before providing the advice or



The quote

Following the Royal Commission, financial services firms improved their systems and controls to prevent 'fees for no service' conduct from occurring—while that is commendable, the issue continues to arise.



Rachel Erlich, Holley Nethercote Lawyers

Rachel is special counsel at Holley Nethercote. Rachel joined in 2018 and has a broad range of experience in Consumer Credit Law, Privacy, Banking and Finance Law, Financial Services Law and Commercial Law. Rachel also has a keen interest in delivering training.

making a recommendation, that any advice related to a superannuation switch would need to be paid out of the member's pocket.

The consultation paper notes:

A 'switch' would capture the transfer (in whole or part) of a member's existing superannuation balance from one fund to another, or the redirection of future contributions away from one fund to another. It would not capture movements between investment options or products offered within the member's existing fund.

The consultation opened on 7 April 2026 and closed on 22 May 2026.

The deduction of advice fees remains a live issue for government and ASIC. Licensees should consider whether their systems are robust and that measures are in place to avoid any situation in which a fee is charged for the provision of financial services where the licensee cannot provide those services.

Where a 'fee for no service' issue arises, licensees should ensure that they properly investigate, take action to stop the issue from continuing, appropriately remediate all affected clients and meet their reportable situation obligations. **FS**

[8] Recommendation 3.3, Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Volume 1, page 243.

[9] Australian Securities and Investments Commission v AMP Superannuation Limited [2023] FCA 488.

[10] ASIC 25-252MR <https://www.asic.gov.au/about-asic/news-centre/find-a-media-release/2025-releases/25-252mr-asic-bans-former-crown-wealth-group-director-brendan-rodwell-for-failing-to-report-fees-for-no-service-conduct/>

[11] ASIC, Clarifying intra-fund advice <https://asic.gov.au/about-asic/news-centre/articles/clarifying-intra-fund-advice/>

[12] Treasury consultation paper 'Enhancing member protections in the superannuation system' <https://consult.treasury.gov.au/c2026-756030>

[13] Australian Securities and Investments Commission (ASIC) 2026, Shield Master Fund, ASIC <https://www.asic.gov.au/about-asic/asic-investigations-and-enforcement/enforcement-activities/shield-master-fund/>

[14] Australian Securities and Investments Commission (ASIC) 2026, First Guardian Master Fund, ASIC <https://www.asic.gov.au/about-asic/asic-investigations-and-enforcement/enforcement-activities/first-guardian-master-fund/>

****Shield Master Fund and First Guardian Master Fund collapses**

Shield Master Fund and First Guardian Master Fund were managed investments schemes. Approximately 5,800 people invested their superannuation savings into Shield and approximately 6,000 people invested their money (including superannuation savings) into First Guardian. Often this occurred after the person was contacted by a lead generator who then referred the person to a financial adviser. The financial adviser often advised the person to roll over their existing superannuation balances into a choice superannuation fund available on a platform or to set up a self-managed superannuation fund to facilitate the investment into Shield or First Guardian. The funds collapsed and ASIC continues to investigate conduct connected to the funds.

Sources: ASIC Shield Master Fund [13], ASIC Guardian First Master Fund [14]

Notes

[1] Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Volume 1, page 136.

[2] ASIC 23-057MR, Final ASIC update: Compensation for financial advice related misconduct as at 31 December 2022 <https://www.asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-057mr-final-asic-update-compensation-for-financial-advice-related-misconduct-as-at-31-december-2022/>

[3] Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Volume 1, page 137.

[4] Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Volume 1, page 139.

[5] Recommendation 2.1 (Annual renewal and payment) Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Volume 1, page 164.

[6] Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Volume 1, page 240.

[7] Recommendation 3.2, Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Volume 1, page 241.