

HUB²⁴



THE ADVISER'S BEST INTERESTS DUTY: CREATING BETTER ADVICE

January 2019

Financial Adviser Use Only

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ACKNOWLEDGMENTS

CoreData wishes to thank the following individuals for their generous time and co-operation in helping to frame the approach and questions asked in the research underpinning this research paper.

- Amanda Cassar – Wealth Planning Partners, Queensland
- Eleanor Dartnall – Focus Wealth Advisers, NSW
- Simon Jeffery-Bilich – TAL Australia, NSW
- Steve Nielsen – Ascent Wealth Management, Queensland
- Damien Skidmore – Private Wealth Partners, NSW

All responses in this research paper are drawn from a quantitative survey of advisers conducted by CoreData in October/November 2018 and do not necessarily represent the opinions or actions of those listed above.

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FOREWORD

Andrew Alcock
Managing Director, HUB24

A legislated Best Interests Duty and a number of related obligations for financial advisers came into effect in July 1, 2013, with the Future of Financial Advice amendments to the Corporations Act 2001 (Cth).

Specifically, s961B(1) of the Corporations Act states that a provider of personal financial advice must act in the best interests of the client in relation to personal advice.

The law provides a “safe harbour” which advisers can rely on to show they have met the Best Interests Duty, by showing they have carried out certain steps in advising their clients. These steps are set out in s961B(2). (See Appendix 1: The Best Interests Duty), including if an adviser is recommending a product, they must conduct a reasonable investigation into (and assessment of) the products that might meet the objectives and needs of their client.

The adviser’s world is changing rapidly, and technology is allowing the creation of a vast range of new and innovative investment solutions. Products are offering an increasing array of options, and platforms are no longer just administering assets - they’re helping to create value in their own right. All of these factors need to be considered by advisers when delivering advice to clients. Meeting Best Interests Duty is about more than just recommending the lowest-cost option. It should include a consideration of the product features and benefits that may enhance client outcomes.

How financial advisers satisfy Best Interests Duty requirements when recommending products is inevitably contextual with regard to available products in the market at a point in time. There is significant change occurring in our industry with technology, innovation and product development creating new ways to achieve enhanced client outcomes. Will we meet Best Interests Duty differently in the future by considering new and evolving product capabilities or is it possible we may not be doing the very best we can for our clients now if we are not aware of these emerging solutions?



This Research Paper examines the impact the introduction of Best Interests Duty and related obligations (together, the “Best Interests Duty”) has had on how advisers provide advice to clients, what steps, if any, were undertaken prior to the introduction of the Best Interests Duty to understand its impact, what steps or processes have been initiated since its introduction to ensure compliance, and whether advisers would welcome more training and information about compliance obligations.

This Research Paper is based on responses to 56 questions which were sent to a broad selection of advisers across Australia with responses received from over 300 advisers. The questions were prepared by CoreData with input from HUB24, the AFA and preliminary interviews with 5 industry participants.

It also examines how technology, including the use of platforms, has been used to support compliance with, and to meet the aims and objectives of, the Best Interests Duty. Additionally, the paper investigates the impact of the Best Interests Duty on aspects of providing advice on risk insurance – notably, on how frequently insurance needs are reassessed.

Note: Throughout this Research Paper financial planners and advisers are referenced as belonging to one the following categories:

1. Aligned advisers: Financial planners and advisers who are authorised representatives or salaried advisers of institutionally owned or institutionally branded licensees
2. Non-Aligned advisers: Financial planners and advisers who are authorised representatives or salaried advisers of non-aligned licensees, which are not owned by large institutions or banks) also includes own-AFSL except where called out separately
3. (Where it is called out separately from non-aligned advisers) Own AFSL advisers: Financial planners and advisers who have their own-AFSL or work for self-licensed advice firms

Sample sizes are provided for each response; where no sample size is provided n=306.

Note: The term “Non-Aligned” has been used to describe this group for ease of reference in this report, although noting that it is now considered by ASIC to be a restricted term under Section 923A when used in relation to a specific financial business or service.



KEY FINDINGS

For the advisers who responded:



More than four out of five agree or strongly agree the Best Interests Duty was and remains a necessary step in raising standards across the industry.



They believe they have received adequate training on obligations and compliance – more than 80 percent of aligned advisers received training and education from their licensee; and more than 80 percent of non-aligned advisers received education and training from a specialist provider or from another source, including an industry association.



Since the Best Interests Duty was introduced, more than 90 percent of aligned advisers and almost 90 percent of non-aligned advisers have received additional training.



Roughly 70 percent of them say they “definitely” or “may” need additional training, but almost 85 percent of aligned advisers and 90 percent of non-aligned advisers say they would be open to additional training.



More than 73 percent of aligned advisers and more than 70 percent of non-aligned advisers say the Best Interests Duty has not improved the quality of advice, but survey responses indicated the formal structure of the compliance regime has given advisers greater confidence that their advice is being delivered in the clients’ best interest.



On a scale from 0 to 10, where 0 is “no understanding at all” and 10 is “complete understanding”, they generally rate themselves around an 8. Self-licensed advisers are the least confident, rating themselves at 7.7, and advisers licensed via non-aligned licensees rate themselves most confident, at 8.3.



Approved product lists (or ‘APLs’) have affected aligned and non-aligned advisers in markedly different ways: 57.2 percent of aligned advisers say they believe that having an APL makes it more difficult (49.5 percent), or impossible (7.7 percent), to meet Best Interests Duty requirements.



By far the most important issue in Best Interests Duty compliance when considering an investment product is whether or not the product matches the client’s risk tolerance, assessed using a risk-profiling tool. Consideration of the client’s tax position is ranked much lower.



Just over a third of non-aligned advisers have implemented specific technology solutions/tools, including permitting detailed tax modelling and portfolio modelling, to help comply with the Best Interests Duty. More than half of aligned advisers have done so.



When it comes to the use of platforms, they reported the primary consideration in Best Interests Duty compliance is the features offered by the platform, followed by price. Having a broad menu of investment and insurance options comes a close third.



Licensees are actively testing advisers' compliance with the Best Interests Duty obligations, with 60 percent of the advisers reporting they have been asked by their licensee to provide compliance evidence within the past 12 months.

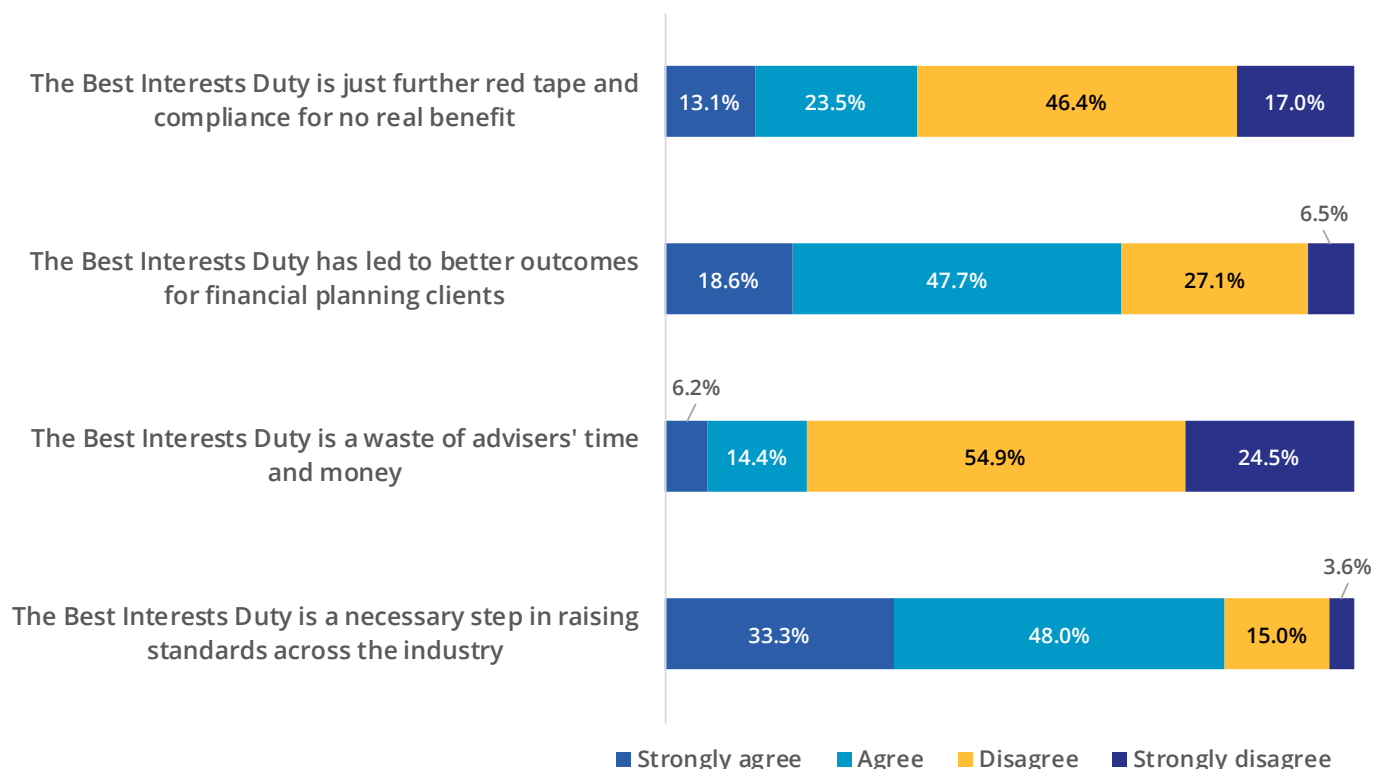


ADVISERS HAVE WELCOMED BEST INTERESTS DUTY

Whatever advisers may have thought about the Best Interests Duty and the attendant compliance burden before it was introduced, adviser responses suggest there is now broad acceptance that it was both necessary, has led to better results for clients, and that it does not represent regulation for regulation's sake, and it is not a waste of time and money.

More than four out of five of the surveyed advisers agree or strongly agree the Best Interests Duty was and is a necessary step in raising standards across the industry. Two-thirds of the advisers agree or strongly agree that the Best Interests Duty has led to better outcomes for clients. More than half disagree that the Best Interests Duty is just further red tape and compliance for no real benefit; and almost four out of five disagree or strongly disagree it is a waste of advisers' time and money.

To what extent do you agree with the following statements about the Best Interests Duty and the "safe harbour" process?



ADVISERS BELIEVE THEY HAVE RECEIVED ADEQUATE TRAINING, BUT WELCOME MORE

The introduction of a Best Interests Duty was well signposted before its commencement in 2013. Negotiations and debate around the Future of Financial Advice amendments were protracted and vocal. Notwithstanding uncertainty about the legal meaning of “best interests”, and some other aspects of proposed new laws including the so-called “safe harbour”, Australian financial services licensees and advisers had ample opportunity to prepare for the new regime. They appear to have used the time well.

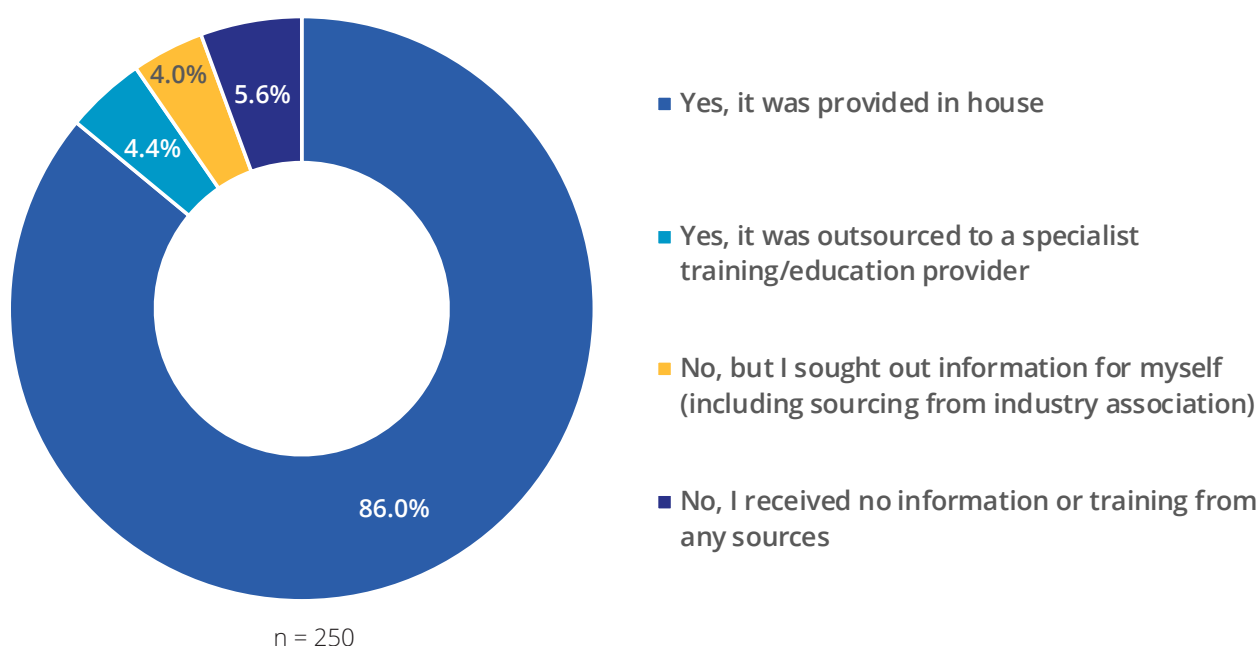
Before the Best Interests Duty commenced advisers generally report they received training on both how advice must be provided to clients, and their compliance obligations under the Best Interests Duty regime.

About 86 percent of advisers surveyed received in-house training from their licensee on how advice must be provided, with a smaller number either seeking training for themselves, including from an industry association, or received training from a specialist training or education entity. Only 5.6 percent of the advisers say they received no information or training of any kind from any sources.

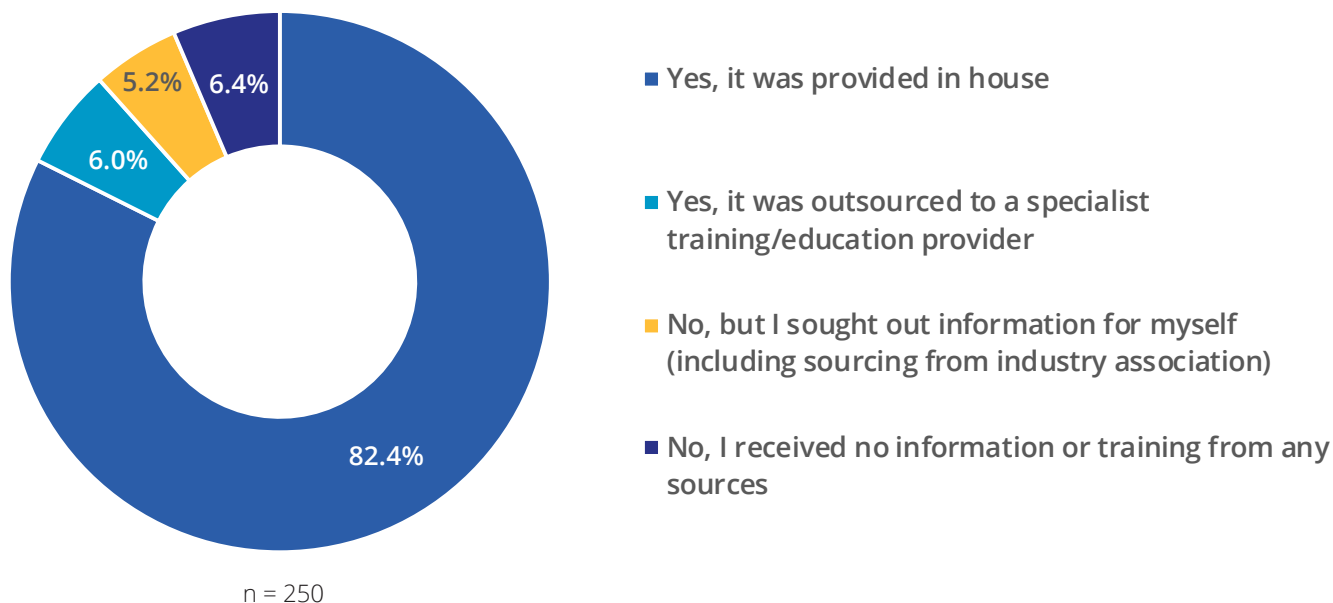
Likewise, more than four out of five say their licensee provided in-house training or information on their compliance obligations under the Best Interests Duty, with a smaller number receiving training or information from a specialist training or education provider or seeking out the information for themselves, including from an industry association.

Just more than 6 percent of the surveyed advisers say they received no information or training about their Best Interests Duty compliance obligations.

Before the Best Interests Duty came into force, did your licensee provide you with information about the likely impact of the Best Interests Duty on how advice must be provided to clients?

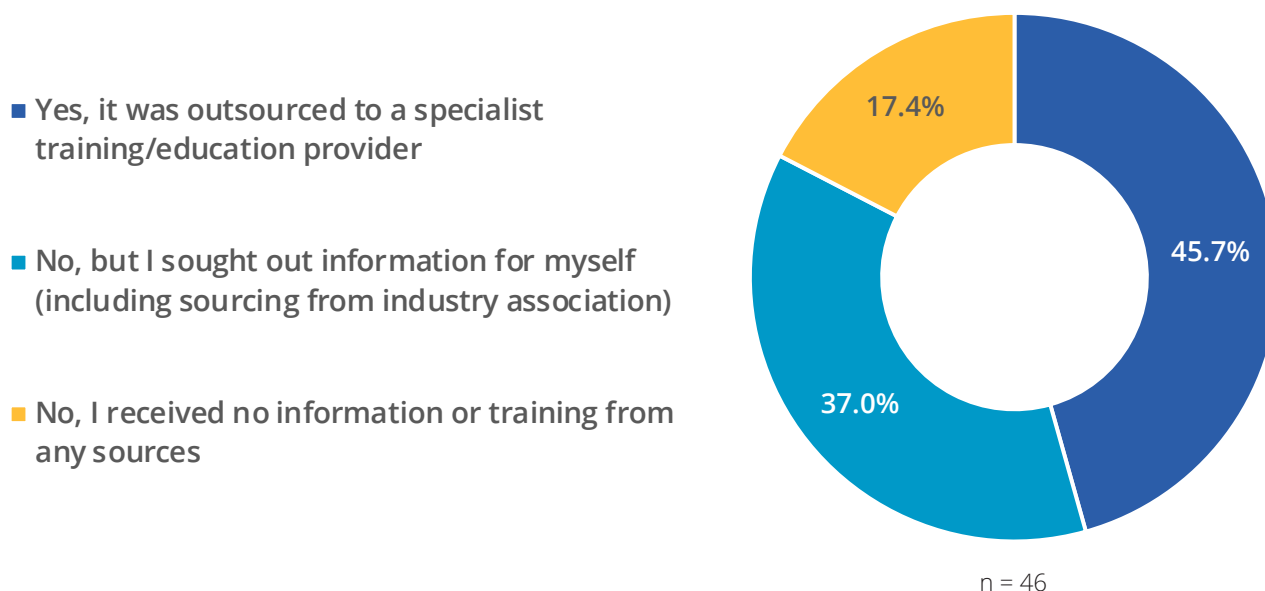


Before the Best Interests Duty came into force, did your licensee provide you with training or information on your compliance obligations under the Best Interests Duty?



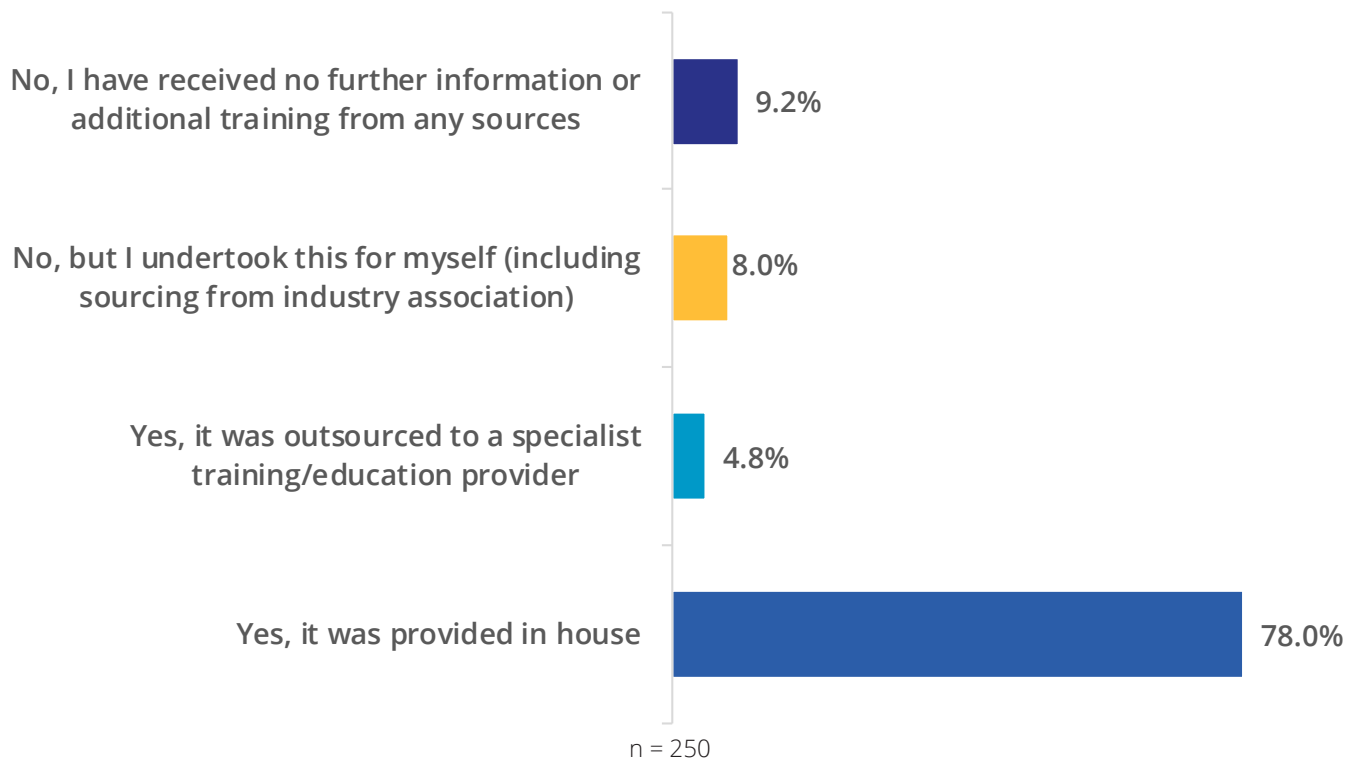
The picture is slightly different for own-AFSL firms: more than 17 percent received no information or training from any sources, while 45.7 percent received information or training from a specialist training or education provider; and 37 percent sought out the information for themselves, including from an industry association.

Before the Best Interests Duty came into force, did you undertake any training or seek information on your compliance obligations under the Best Interests Duty? (Own-AFSL advisers only)



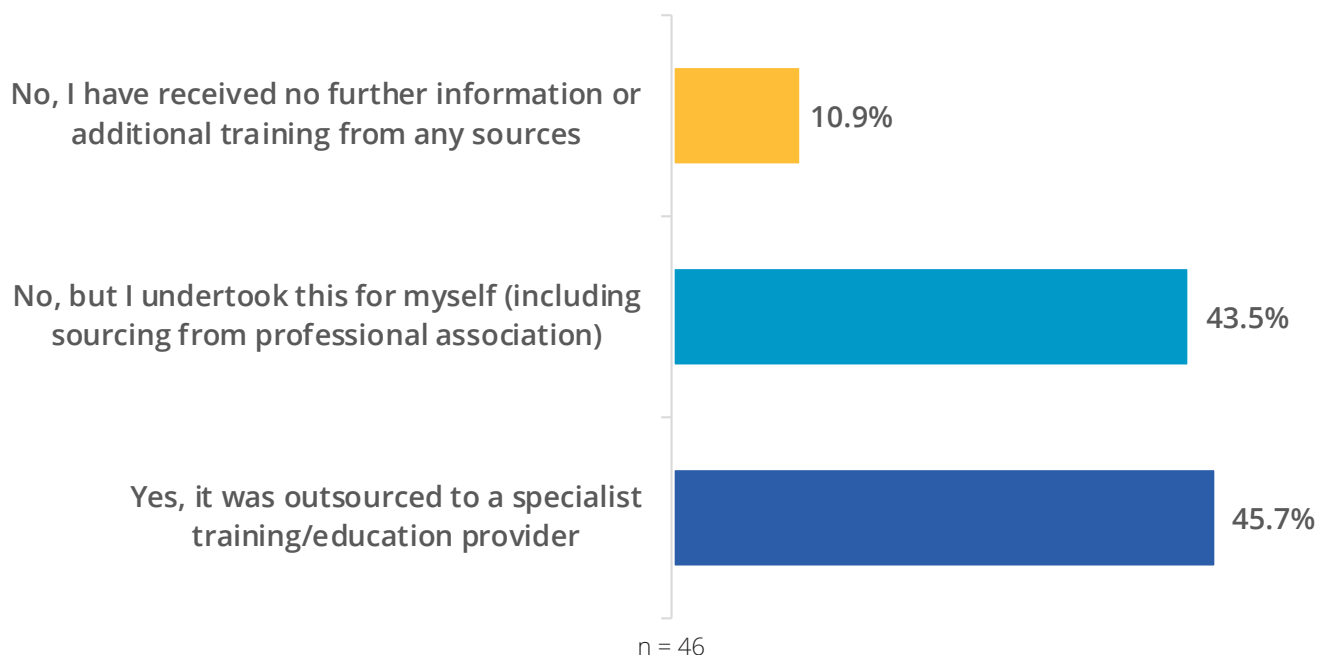
Since the Best Interests Duty came into effect, almost four out of five of the surveyed aligned advisers or non-aligned advisers, not including own-AFSL or self-licensed advisers, have received a refresher course from their licensee on their Best Interests Duty obligations, with a further 13 percent or so receiving a refresher course from specialist training or education providers, or sourcing it themselves. Just under 10 percent report receiving no additional training or education from any sources.

Since the Best Interests Duty came into force has your licensee provided you with a refresher course on your compliance obligations under the Best Interests Duty? (Own-AFSL advisers only)



Since the Best Interests Duty came into effect, almost four out of five of the surveyed aligned advisers or non-aligned advisers, not including own-AFSL or self-licensed advisers, have received a refresher course from their licensee on their Best Interests Duty obligations, with a further 13 percent or so receiving a refresher course from specialist training or education providers, or sourcing it themselves. Just under 10 percent report receiving no additional training or education from any sources.

Since the Best Interests Duty came into force have you undertaken a refresher course on your compliance obligations under the Best Interests Duty?



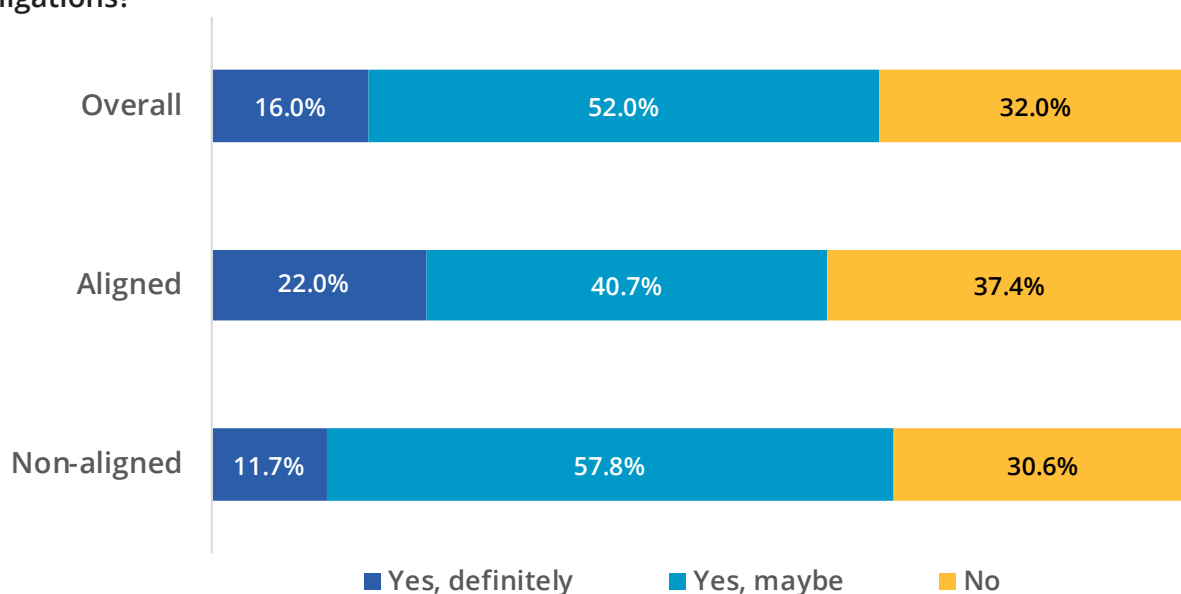
Aligned advisers reported being more likely to believe they definitely need additional information or training on their Best Interests Duty compliance obligations, with 22 percent saying they do – almost double the proportion of the non-aligned advisers.

But the surveyed aligned advisers are somewhat more polarised in their views than are the non-aligned advisers – while 22 percent of the aligned advisers say they definitely need more information or training, more than 37 percent say they do not, compared to just 30 percent of the non-aligned advisers.

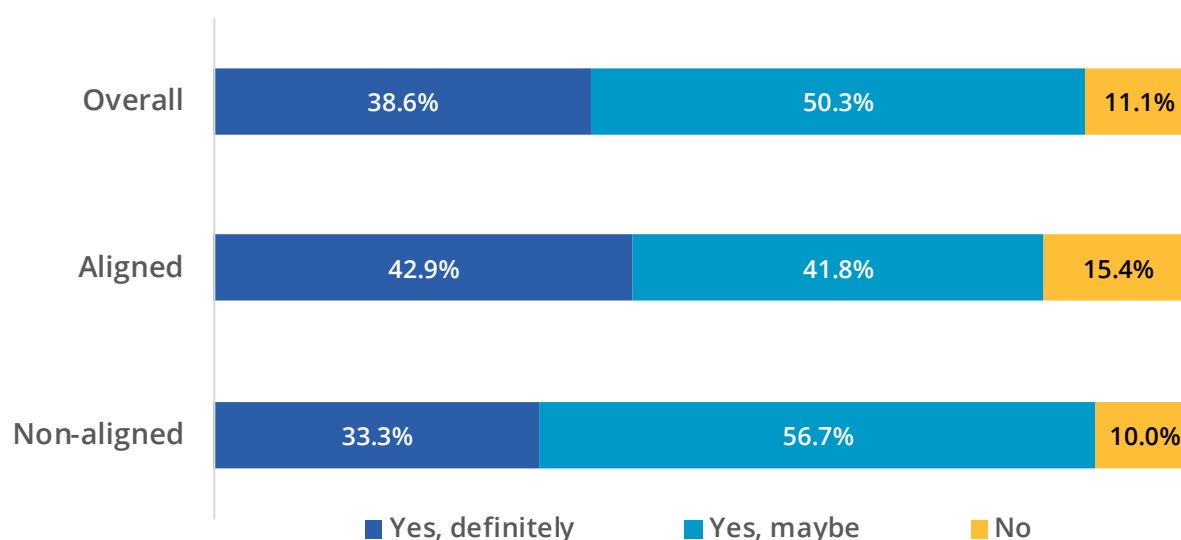
More than 15 percent of the aligned advisers say they are not open to more information or training, compared to 10 percent of the non-aligned advisers.

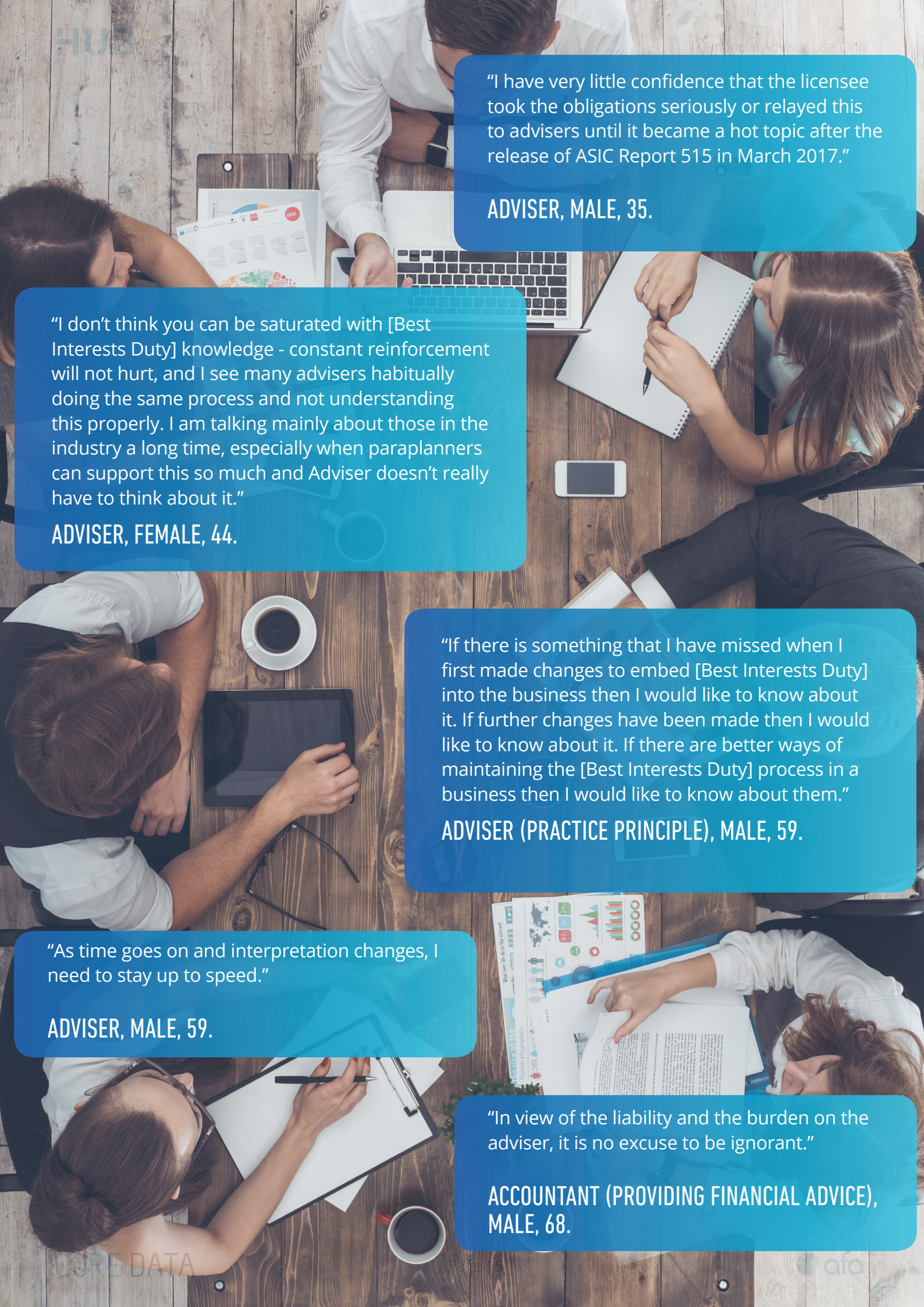
Almost 43 percent of the responding aligned advisers say they would be open to receiving additional information or training on their obligations, compared to about a third of the non-aligned advisers.

Do you believe you need additional information or training on your Best Interests Duty compliance obligations?



Would you be open to receiving additional information or training on your Best Interests Duty compliance obligations?





"I have very little confidence that the licensee took the obligations seriously or relayed this to advisers until it became a hot topic after the release of ASIC Report 515 in March 2017."

ADVISER, MALE, 35.

"I don't think you can be saturated with [Best Interests Duty] knowledge - constant reinforcement will not hurt, and I see many advisers habitually doing the same process and not understanding this properly. I am talking mainly about those in the industry a long time, especially when paraplanners can support this so much and Adviser doesn't really have to think about it."

ADVISER, FEMALE, 44.

"If there is something that I have missed when I first made changes to embed [Best Interests Duty] into the business then I would like to know about it. If further changes have been made then I would like to know about it. If there are better ways of maintaining the [Best Interests Duty] process in a business then I would like to know about them."

ADVISER (PRACTICE PRINCIPLE), MALE, 59.

"As time goes on and interpretation changes, I need to stay up to speed."

ADVISER, MALE, 59.

"In view of the liability and the burden on the adviser, it is no excuse to be ignorant."

ACCOUNTANT (PROVIDING FINANCIAL ADVICE), MALE, 68.

THE BEST INTERESTS DUTY UNDERPINS THE QUALITY OF ADVICE

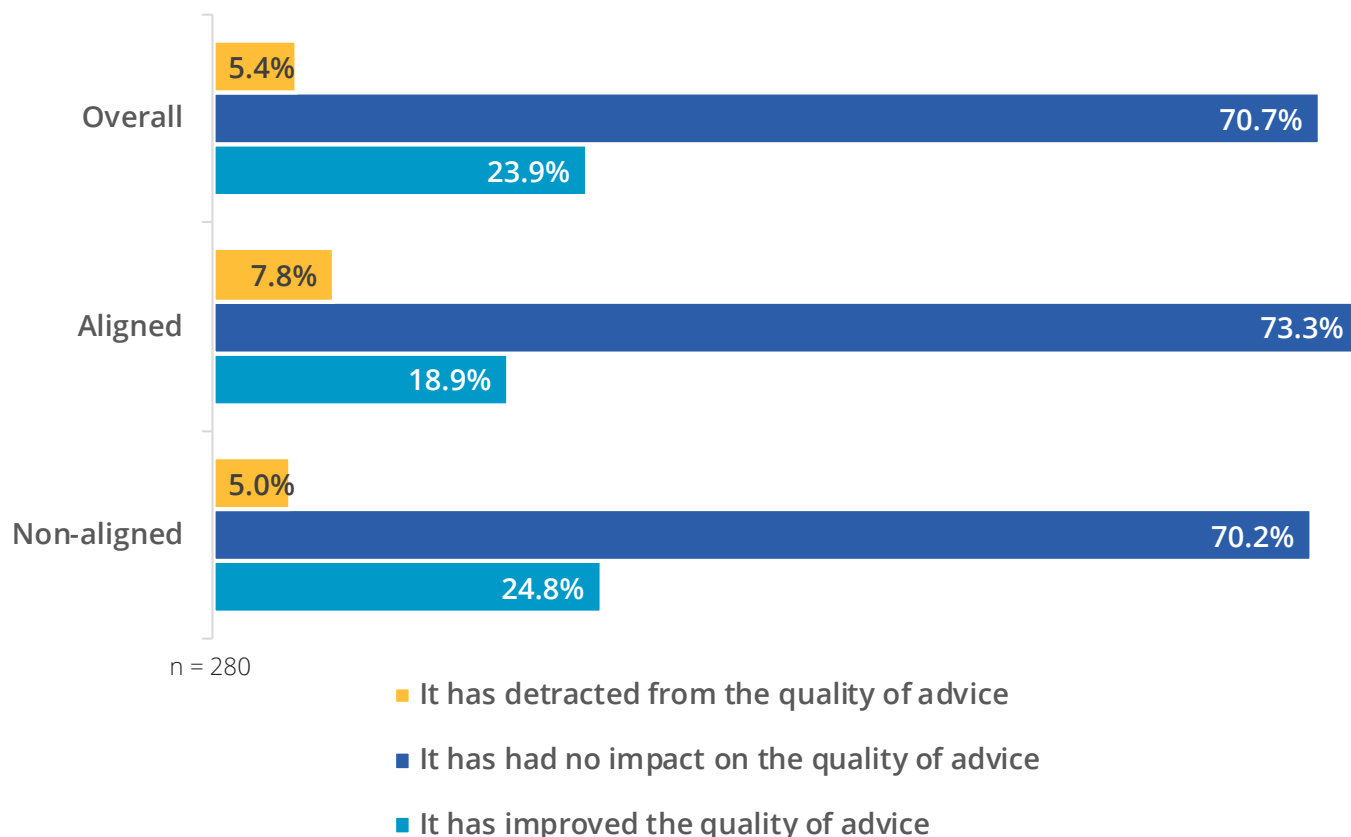
Despite the widespread acceptance of the Best Interests Duty, and a view that it has improved outcomes for clients, there is a strong view that it has not had a great impact on the quality of the actual advice provided. It suggests advisers were already confident in the quality of advice given, but a formal compliance requirement has improved processes around the provision of advice and given advisers greater confidence or comfort.

Indeed, in responses in research for this report, advisers indicated that a formalised Best Interests Duty and its related obligations has provided more certainty around compliance and disclosure, and the steps that advisers must take to meet their new duty.

Just under 19 percent of all aligned advisers and just under a quarter of non-aligned advisers say the Best Interests Duty has improved the quality of advice to clients, largely as a result of improved processes.

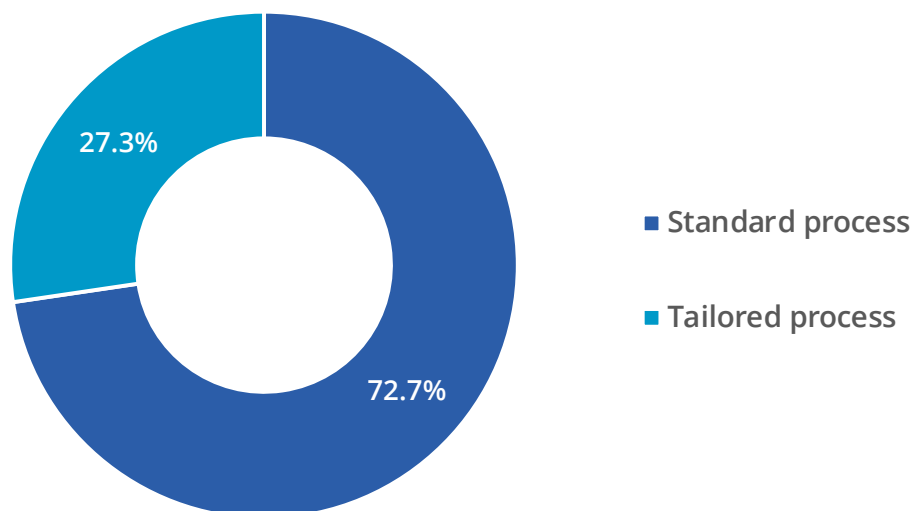
However, more than 70 percent of non-aligned advisers and more than 73 percent of aligned advisers believe it's had no impact. Aligned advisers are slightly more likely than non-aligned advisers to believe the Best Interests Duty has detracted from the quality of advice.

How has the Best Interests Duty affected the quality of advice you provide to clients?



When considering the Best Interests Duty, almost three-quarters (72.7 percent) of the responding advisers have a standardised approach to compliance, irrespective of the nature or type of client they are serving. A tailored process to compliance, dictated by the client, is adopted by just over a quarter of all the advisers.

When providing advice to a client, do you use a standard process to comply with your Best Interests Duty, or is this tailored to different types of clients?

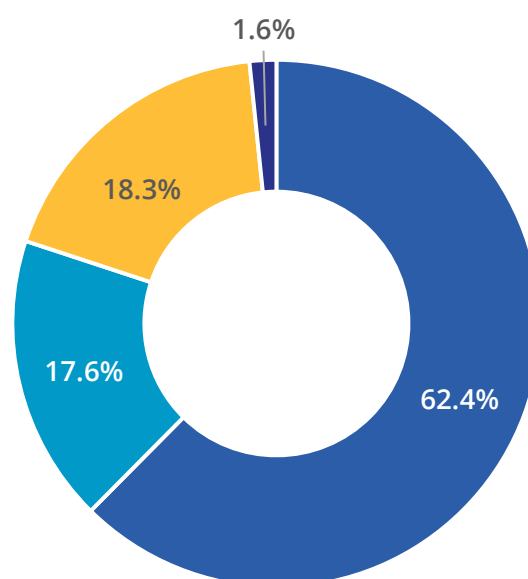


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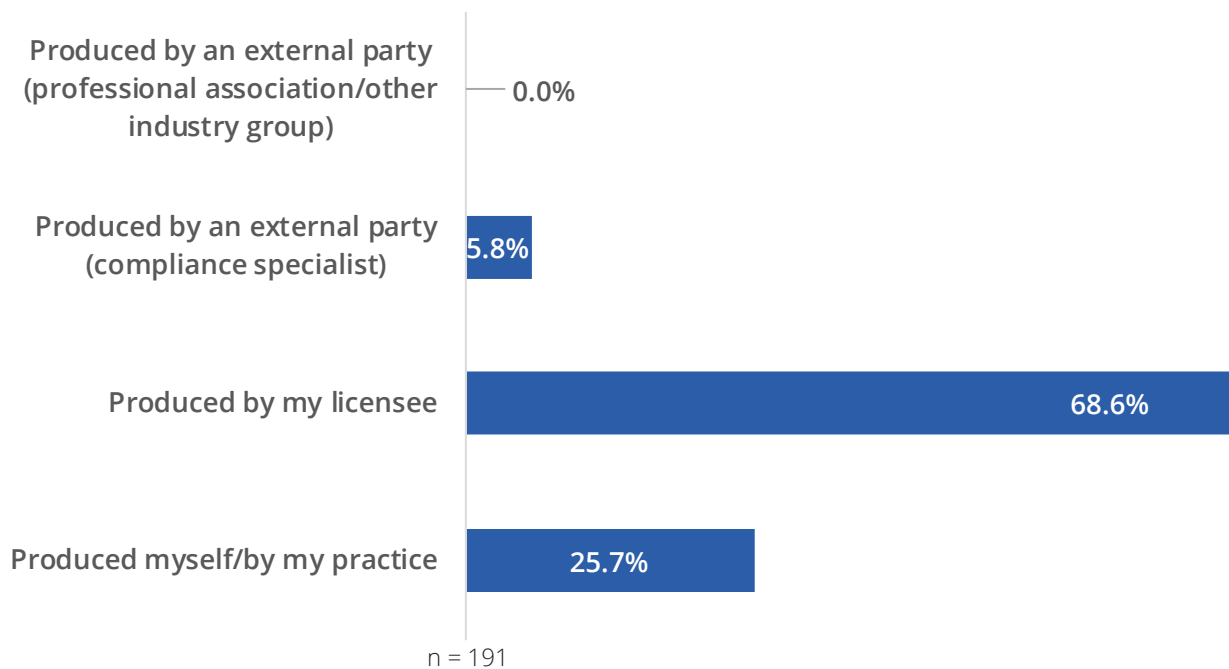
Almost two-thirds (62.4 percent) of the responding advisers use a formal checklist to ensure compliance with the safe-harbour provisions of the Best Interests Duty. Less than 2 percent have “no formal process” to check advice.

To what extent is compliance with your Best Interests Duty and the “safe harbour” process built in to the production of your statements of advice (SoAs)?


- We have a formal checklist to ensure compliance with the safe-harbour provisions
- No formal checklist/compliance step but we always place clients’ interests first
- I adhere to recognised professional standards, which incorporate the Best Interests Duty
- There is no formal process to check advice against the safe-harbour provisions



Who produced the compliance checklist for you?



In more than two-thirds of cases, advisers reported the checklist they used was produced by a licensee. In about a quarter of cases it was produced by the adviser themselves or by their practice. In all other cases a checklist was produced by an external party, including a compliance checklist.

A background image showing a group of professionals in a meeting. A man in a suit is looking at a document, while a woman with glasses and curly hair looks on. They are seated at a wooden table with papers, a laptop, and glasses of water.

"We use a wide-ranging template (over 50 pages in length) that is then adjusted to fit the particular client we are dealing with."

ADVISER, (PRACTICE PRINCIPLE) MALE, 55.

"Multiple templates have been prepared for the various types of clients, which can be added or adjusted as necessary."

ACCOUNTANT, (PROVIDING FINANCIAL ADVICE), FEMALE, 28.

"I write the statements of advice myself using an approved template, then I run them past our paraplanning and compliance teams."

ADVISER (SELF-EMPLOYED), MALE, 53.

"The documentation is the same for all clients; it's more so the engagement process."

ADVISER, MALE, 53.

"I follow the SoA template provided by the licensee with amendment as and when needed in the relevant specific matters."

ADVISER, MALE, 64.

ADVISERS ARE LARGELY CONFIDENT IN THEIR UNDERSTANDING OF THE BEST INTERESTS DUTY

Understanding of Best Interests Duty obligations is self-assessed by the responding advisers as reasonably high across all types of licensees. Own-AFSL or self-licensed advisers show slightly less confidence compared to advisers authorised through institutionally aligned or non-aligned dealer groups, potentially reflecting the degree and sources of training and education available to own-AFSL firms.

How would you rate your own level of understanding of the Best Interests Duty and the implications for you as an adviser? Please rate on a 0-10 scale, where 0 is no understanding at all and 10 is complete understanding.

TYPE	SCORE OUT OF 10
Self-licensed	7.7
Authorised via a licensee not owned by a financial institution	8.3
Authorised by an institutionally owned licensee	8.1
Authorised by an institutionally licensee, salaried adviser	8.2

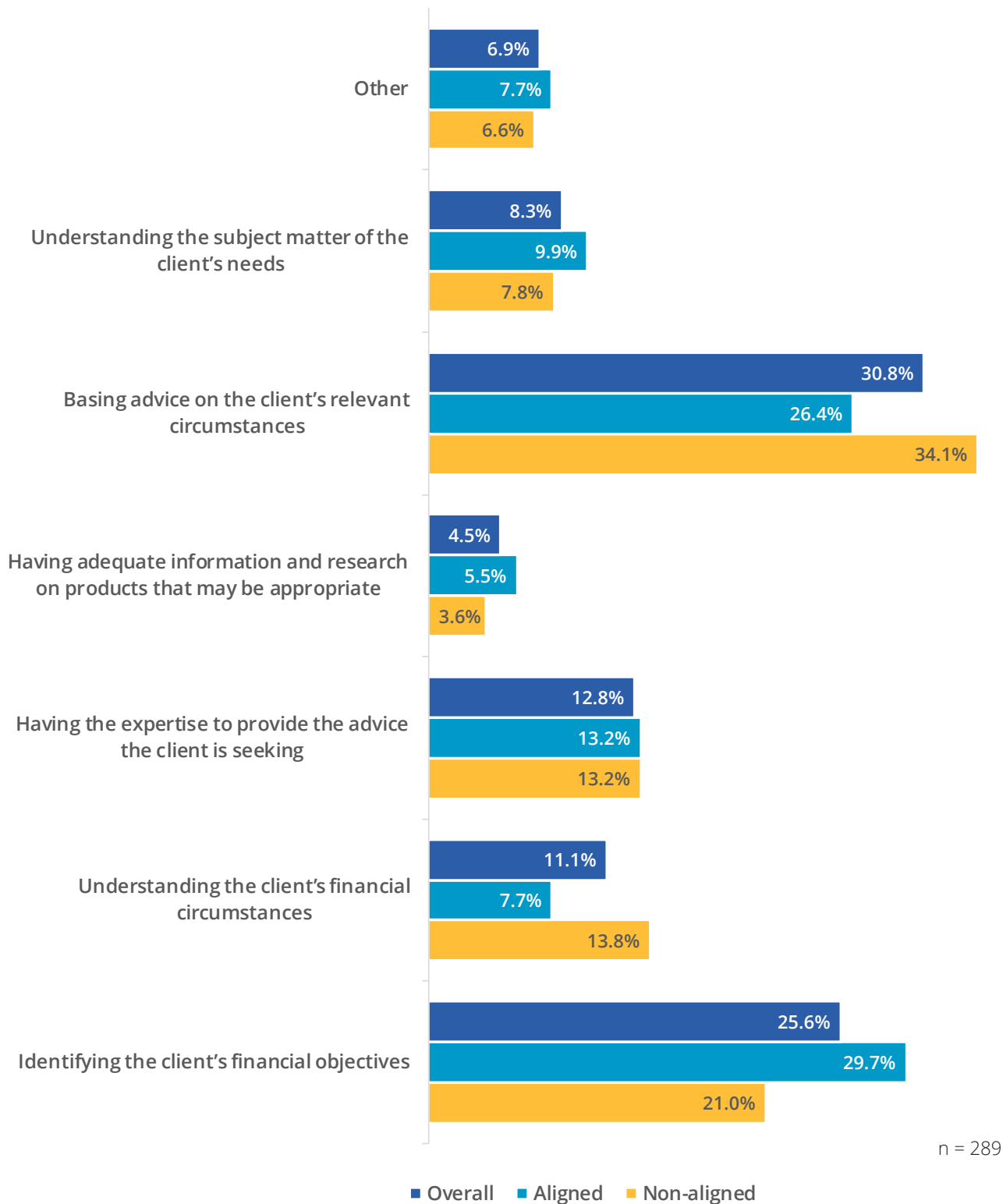
The surveyed advisers broadly demonstrate a reasonable understanding of the key elements of the safe harbour to the Best Interests Duty compliance, with around 80 percent or more of all advisers nominating identifying the client's financial objectives (84.1 percent), understanding the client's financial circumstances (82.4 percent), having the expertise to provide the advice the client is seeking (79.6 percent), having adequate information and research on products that may be appropriate (82.7 percent), and basing advice on the client's relevant circumstances (86.5 percent) as important aspects of compliance. Understanding the subject matter of the client's needs was ranked as important by slightly fewer advisers (77.2 percent).

Some differences between the surveyed aligned advisers and non-aligned advisers emerge when discussing the issues they consider most important in ensuring compliance with the Best Interests Duty.

The non-aligned advisers are more likely than the aligned advisers to say the most important issue is basing advice on the client's relevant circumstances, whereas aligned advisers are more likely than non-aligned advisers to nominate the most important issue as being to identify the clients financial objectives.

However, that said, these two issues are clearly those uppermost in the minds of both the aligned advisers and non-aligned advisers when considering Best Interests Duty compliance. Roughly 13 percent of all the advisers say possessing the expertise to provide the advice the client seeks is the third-most important issue – and indeed, about 40 percent of all the advisers say they have in the past declined to provide advice to a client because the subject matter fell outside their area of expertise.

When providing advice to a client, which of the following issues do you consider most important in ensuring compliance with your Best Interests Duty?



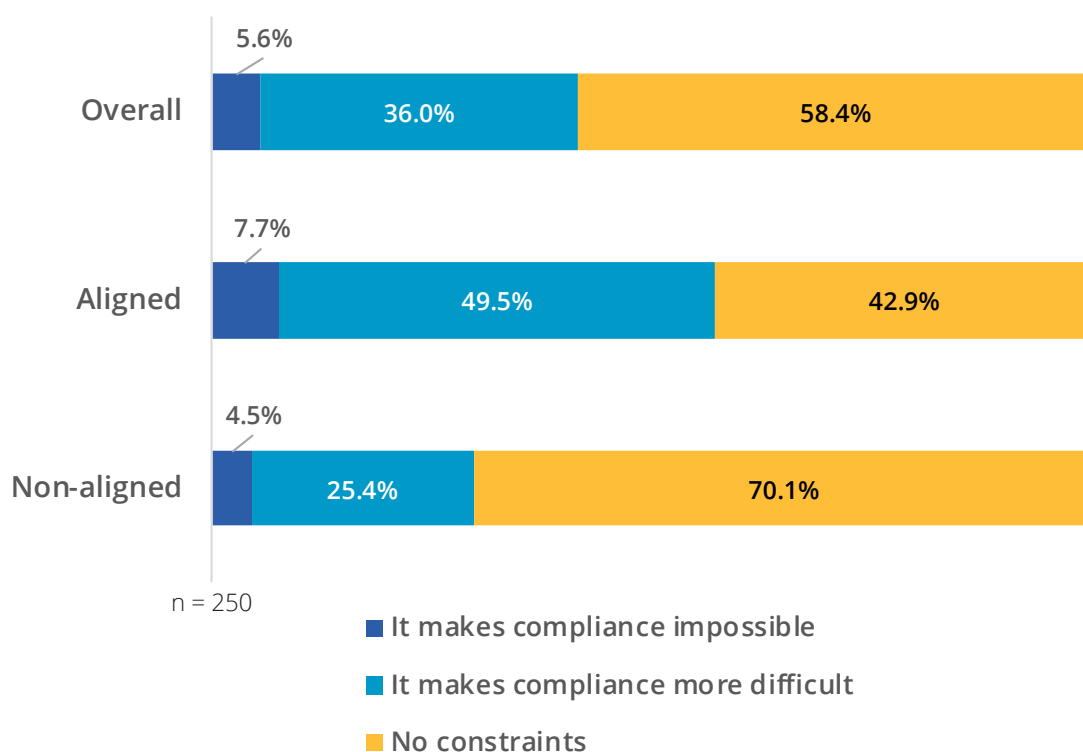
HOW APPROVED PRODUCT LISTS ARE AFFECTING BEST INTERESTS DUTY COMPLIANCE

The results indicate that the ownership structure of a licensee has a significant bearing on how constrained advisers feel by the imposition of an approved product list (APL). Overall, almost 60 percent of the surveyed advisers say an APL imposes no constraints, while 36 percent say it makes compliance more difficult and less than 6 percent say it makes compliance “impossible”

But aligned advisers are much more likely than non-aligned advisers to feel constrained in meeting their Best Interests Duty and related obligations by the APL imposed by the licensee: 57.2 percent of aligned advisers say the APL makes compliance more difficult (49.5 percent) or impossible (7.7 percent).

The non-aligned advisers, on the other hand, are significantly less likely to feel constrained by their APL – only 3 out of 10 feel constrained in any sense, and seven in 10 say the presence of the APL imposes no constraints on them.

What constraints, if any, does an approved product list (APL) place on your ability to meet your Best Interests Duty, and ensure compliance?



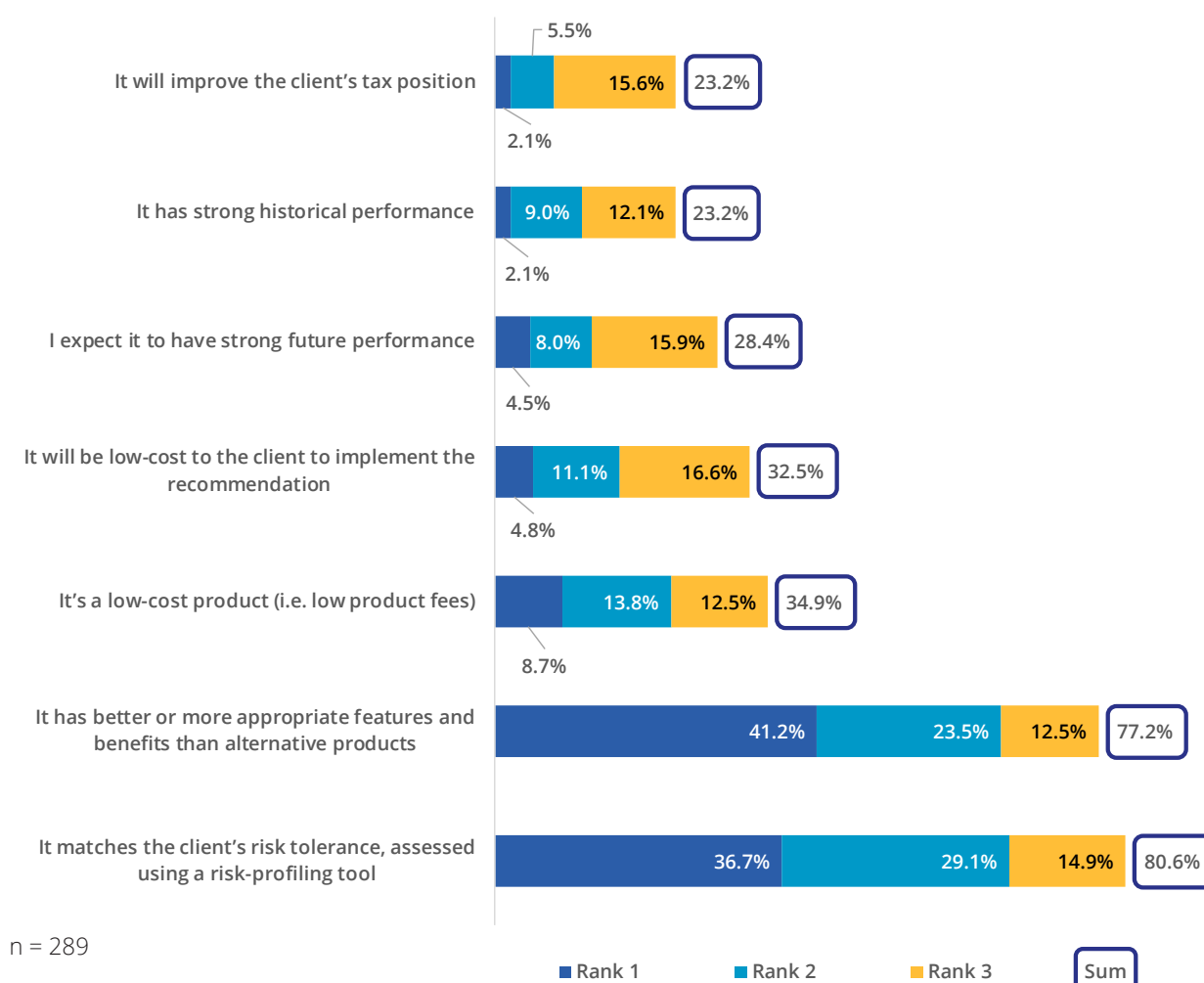
RISK TOLERANCE AND PRODUCT FEATURES LEAD PRODUCT CHOICE CONSIDERATIONS

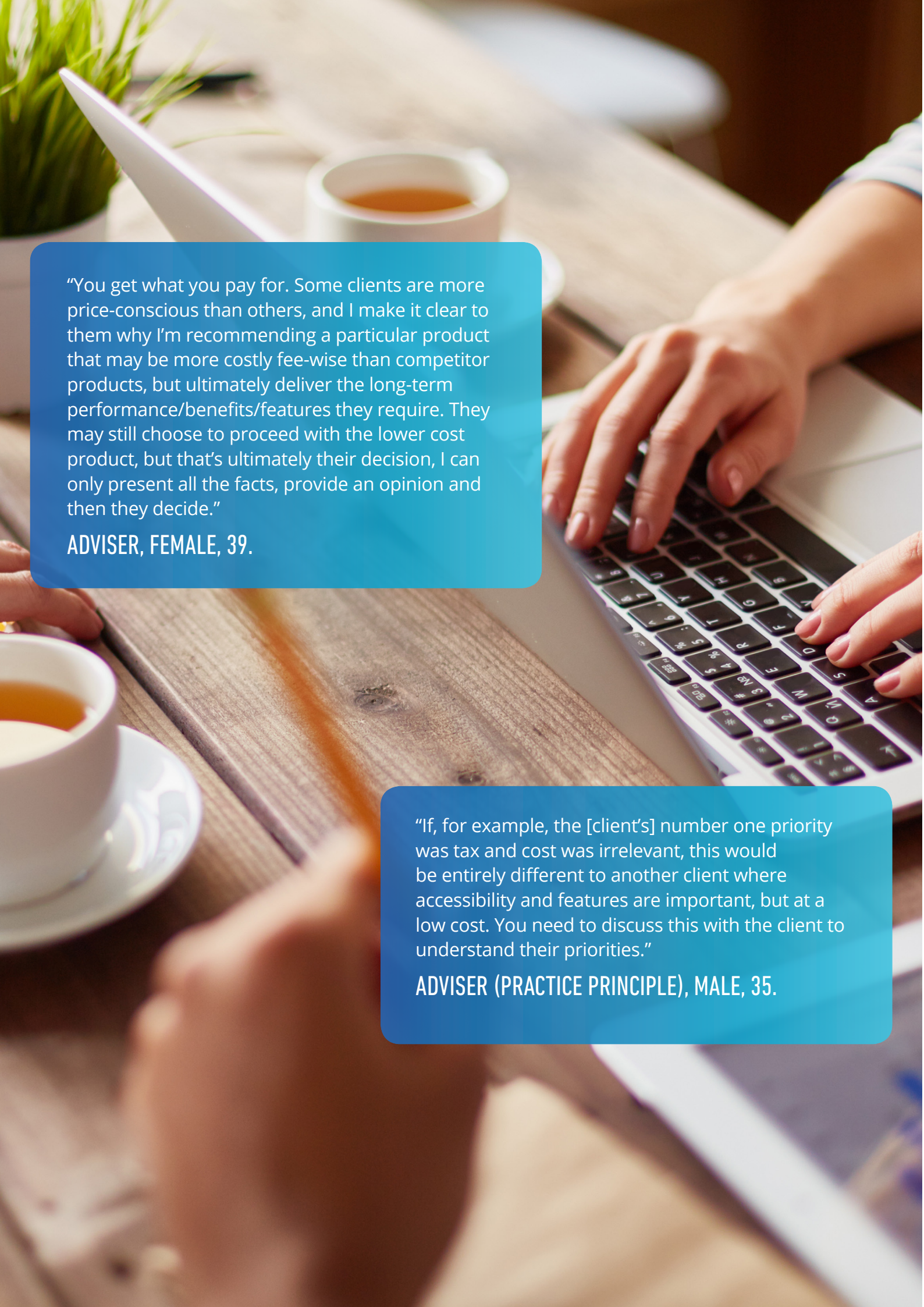
As the Best Interests Duty obligations became more widely understood, it may have seemed logical to believe that implementing the lowest-cost alternative was necessary and sufficient to meet the obligation. However, our results seem to demonstrate that, advisers and licensees alike have come to understand that cost is now seen as a factor but is not the be-all and end-all. When assessing compliance with the Best Interests Duty, ASIC says that it will consider whether the advice provided to the client would leave the client in a better position (if they followed it). Reflecting this, the cost of products and the cost of implementation ranked relatively lowly on the scale of issues that the advisers we surveyed consider.

Our research shows that, for the advisers we surveyed, by far the most significant issues are consideration of whether a product recommendation matches the client's assessed risk tolerance, and whether the recommended product has better or more relevant features than available alternatives.

The product's historical and likely future performance are ranked as even less significant; and less priority is given to whether the recommendation will improve the client's tax position.

When you make an investment product recommendation, in what order do the following issues rank when you consider your compliance with the Best Interests Duty?





"You get what you pay for. Some clients are more price-conscious than others, and I make it clear to them why I'm recommending a particular product that may be more costly fee-wise than competitor products, but ultimately deliver the long-term performance/benefits/features they require. They may still choose to proceed with the lower cost product, but that's ultimately their decision, I can only present all the facts, provide an opinion and then they decide."

ADVISER, FEMALE, 39.

"If, for example, the [client's] number one priority was tax and cost was irrelevant, this would be entirely different to another client where accessibility and features are important, but at a low cost. You need to discuss this with the client to understand their priorities."

ADVISER (PRACTICE PRINCIPLE), MALE, 35.

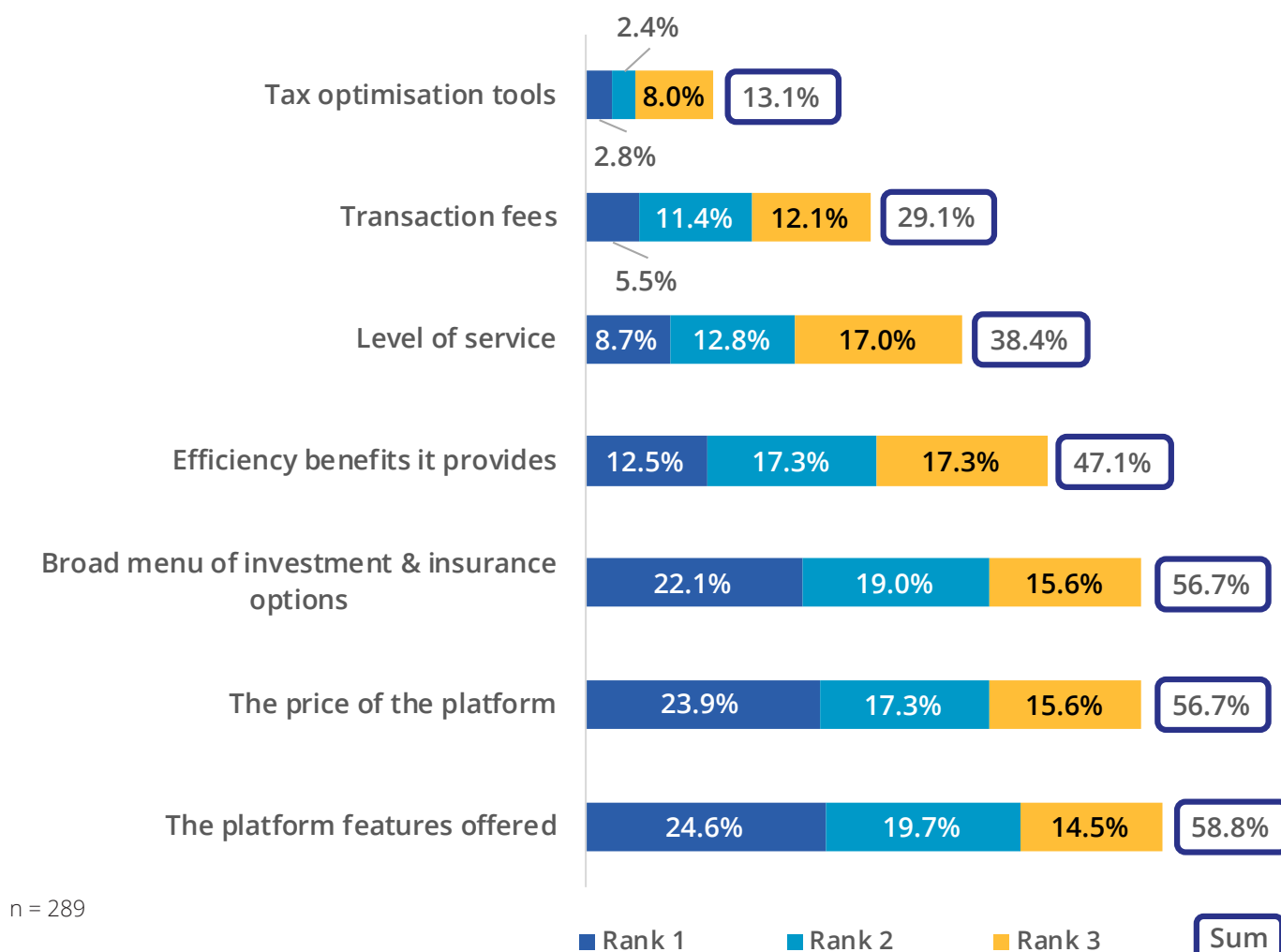
FEATURES ARE THE MOST IMPORTANT CONSIDERATION, AHEAD OF PRICE AND MENU

The advisers surveyed are relatively cost-conscious when it comes to selecting and implementing platform solutions under their Best Interests Duty obligations. But features offered by the platform trump cost - about a quarter of all advisers say it is the most important issue when considering a platform solution. A further 20 percent or so rank this as the second-most important issue, and 14.5 percent of advisers rank it as the third-most important issue.

Cost is considered paramount by almost 25 percent of the surveyed advisers, and it's the second-most important issue for about 17 percent of the advisers. Coming a very close third is consideration of the menu of investment and insurance options offered. The interviews with financial advisers suggested they believe platforms have increasingly been commoditised in recent years, with little to choose between the major offerings in terms of features, costs and investment/insurance options.

Again, tax optimisation tools are not a high priority for most of the advisers, with less than 3 percent of advisers ranking the issue as most or second-most important.

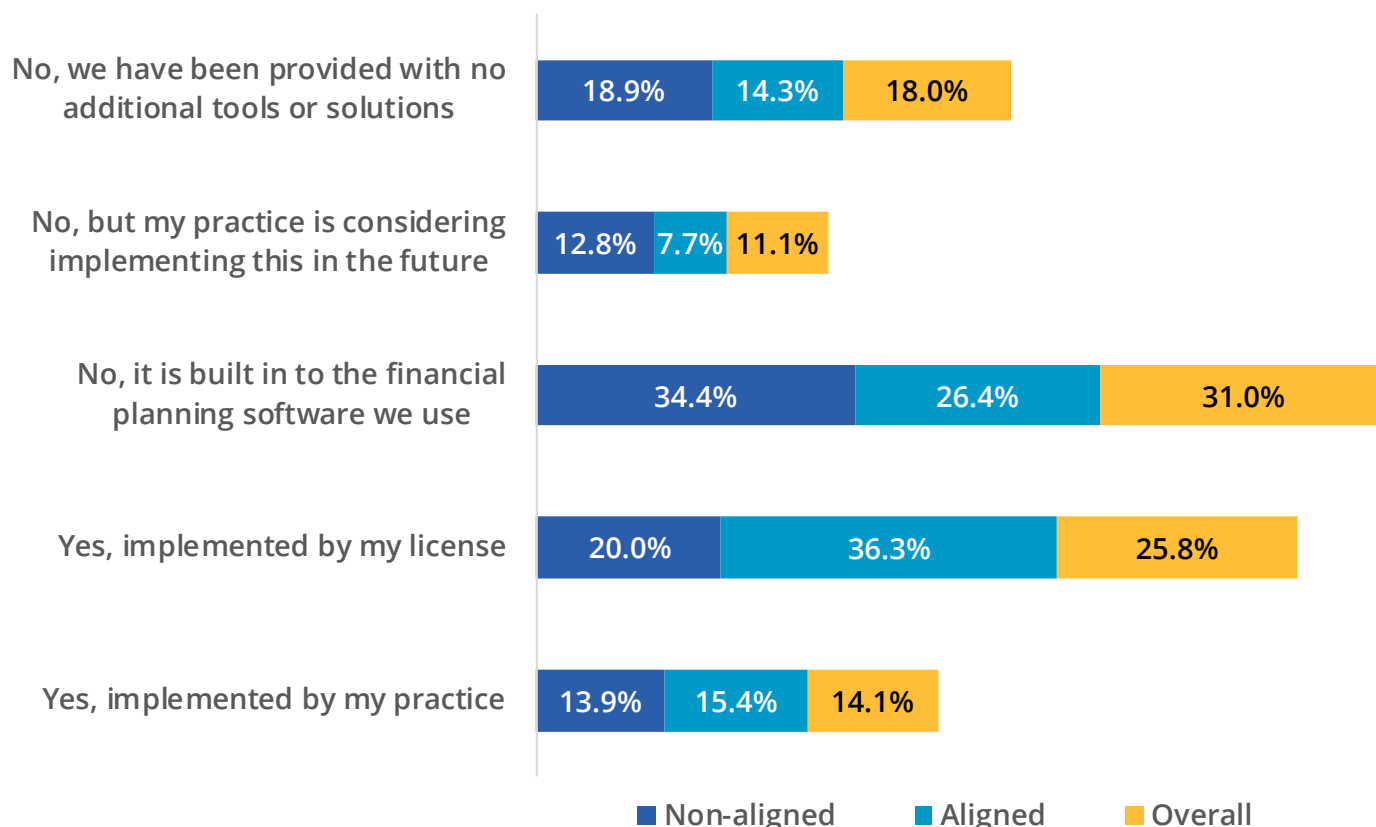
Thinking about your compliance with the Best Interests Duty, which of the following are most important in considering a platform solution?



TAX MANAGEMENT/MODELLING IS ATTRACTIVE, BUT NOT YET EFFECTIVELY IMPLEMENTED

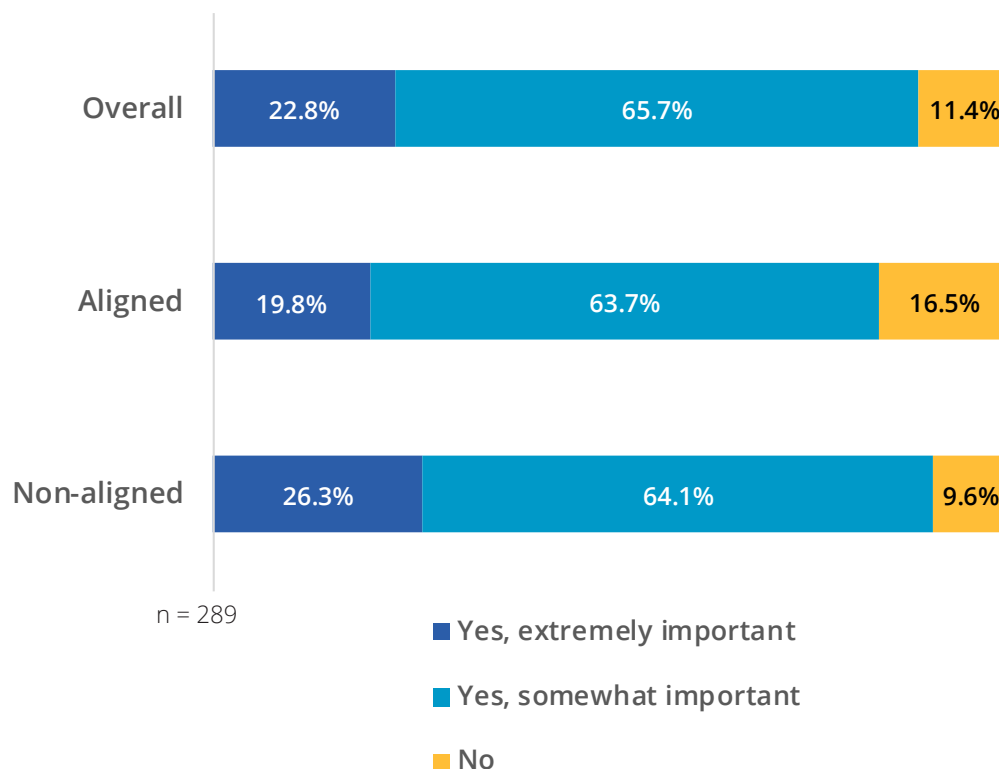
Financial planning often involves advice on taxation, and financial planners and advisers giving tax advice must be registered by the Tax Practitioners Board (TPB) as tax (financial) advisers. However – and despite the encouragements of the Best Interests Duty – two-thirds of non-aligned advisers and just less than half of aligned advisers say neither their practice nor their licensee has implemented specific technology solutions or tools – including those that allow detailed tax modelling and portfolio modelling – to help them comply with their Best Interests Duty obligations. Overall, 60 percent of surveyed advisers say their practice or licensee has not implemented specific tools to help with tax and portfolio modeling to comply with the Best Interests Duty. There is a strong case to be made for tax modelling and optimisation tools to be given increased consideration particularly where an adviser is thinking about long-term outcomes for a client, and clients could be missing out on enhanced returns.

Has your practice or your licensee implemented specific technology solutions/tools to help you comply with your Best Interests Duty - including permitting detailed tax modelling and portfolio modelling?



There appears to be some latent demand for active tax management tools, with more than a quarter of surveyed non-aligned advisers saying they would consider the facility “extremely important” and more than 64 percent saying it would be “somewhat important” for complying with the Best Interests Duty, if it were offered; and just under 20 percent of the aligned advisers saying it would be “extremely important” and a further 64 percent or so saying it would be “somewhat important”.

If a platform could add value to client outcomes through active tax management would you consider it important for your compliance with the Best Interests Duty?

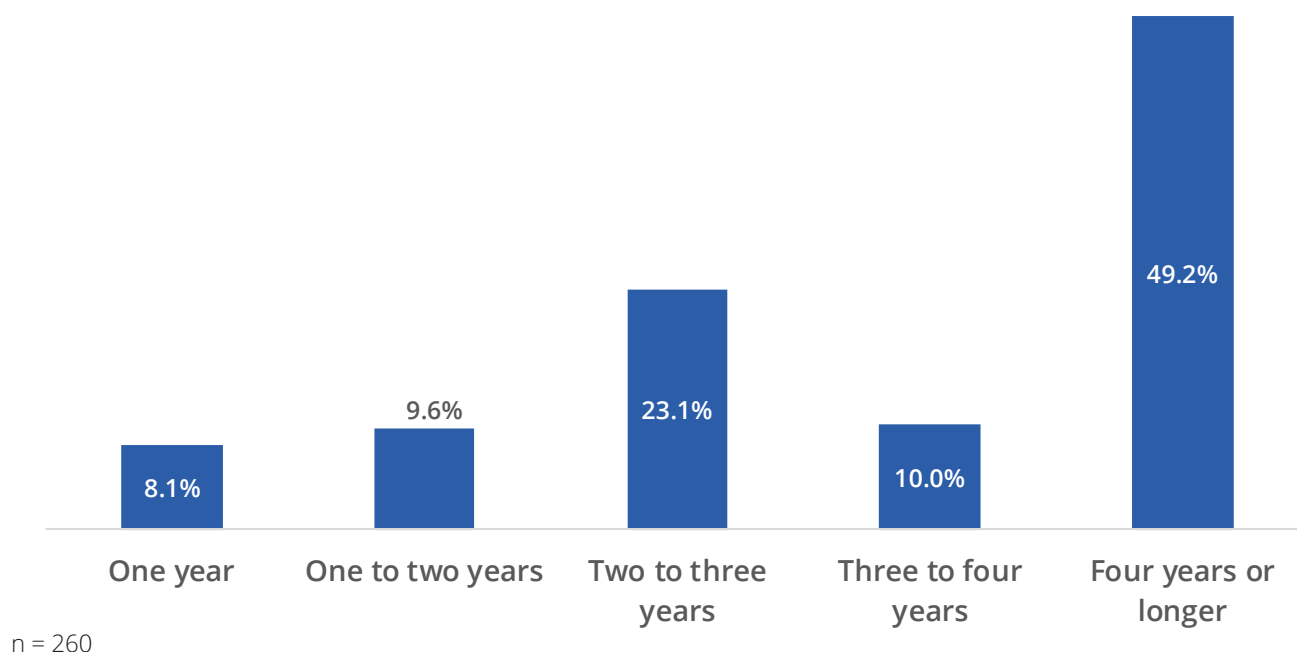


THE IMPACT OF THE BEST INTERESTS DUTY ON INSURANCE POLICY ‘CHURNING’

Only 15 percent of advisers surveyed say they do not provide advice on life insurance.

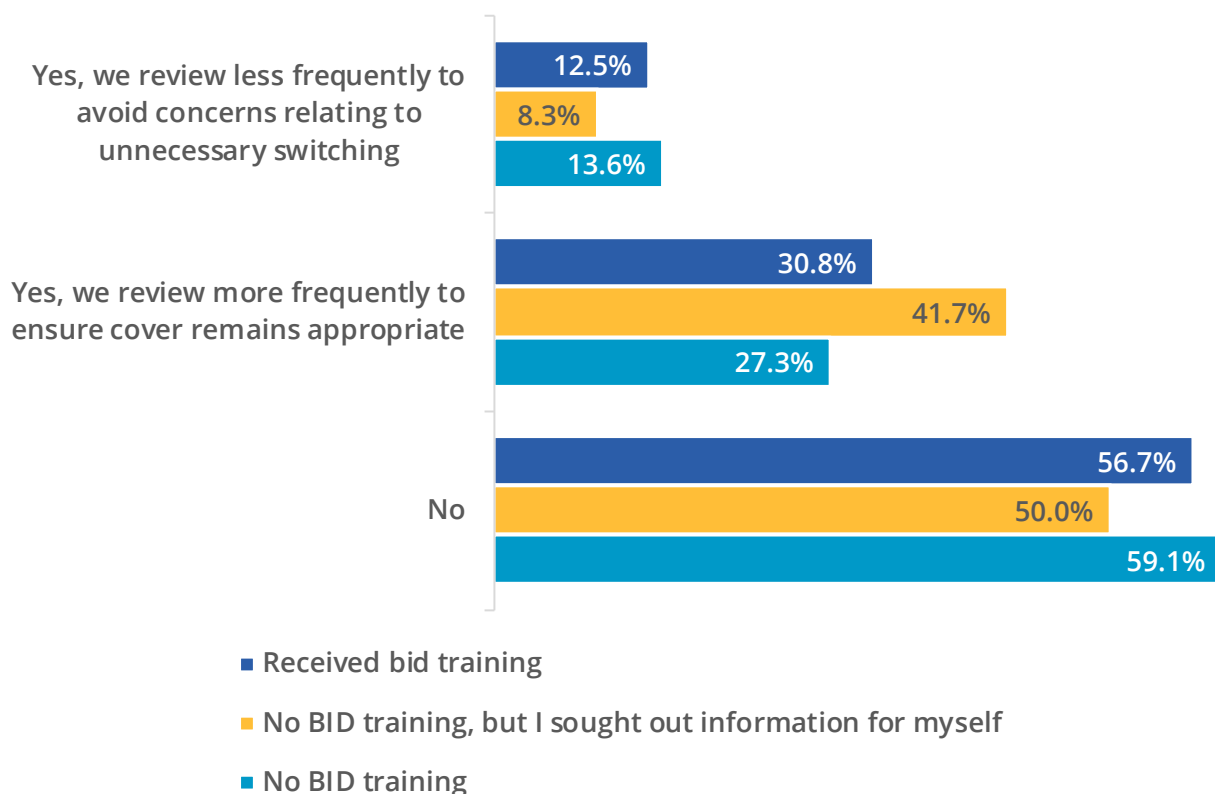
About half (49.2 percent) of those advisers who do provide such advice say they assess premiums on competing risk products over a period of four years or longer when considering how long a particular policy might enjoy a price advantage.

Over what time period do you typically assess premiums on competing risk products when considering how long a particular policy might enjoy a price advantage?



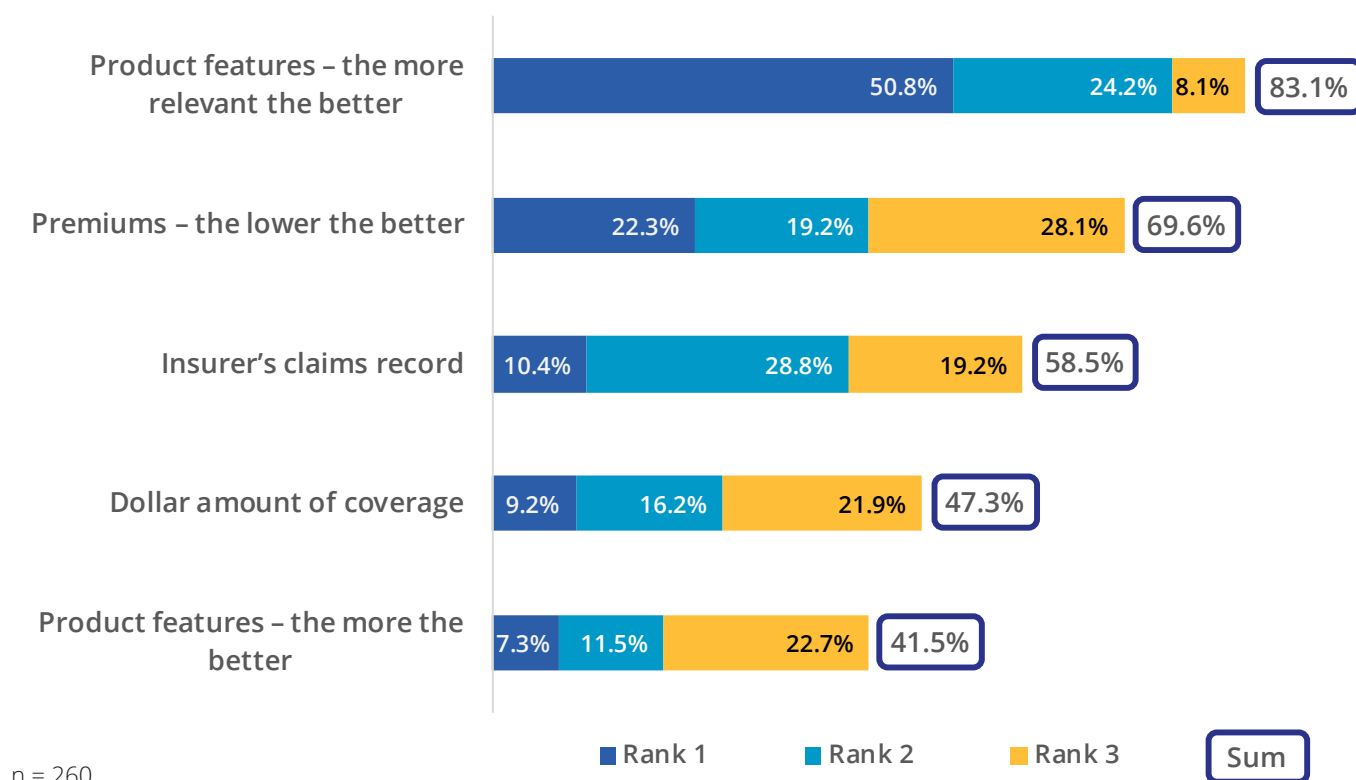
Concerns that the Best Interests Duty might lead to more frequent insurance reviews and an increase in so-called “churning” across the board appear unfounded, with half or more of surveyed advisers saying its introduction has had no impact on the frequency of insurance reviews. This is a view held irrespective of whether or not they received information or training prior to commencement of the Best Interests Duty. The advisers who sought Best Interests Duty training or information for themselves, rather than receiving it from a licensee, are slightly more likely to review insurance needs less frequently; and the advisers who received no Best Interests Duty training at all, from any sources, are slightly more likely to have made no changes to their insurance review cycle.

Has the Best Interests Duty affected how often you review your clients' insurance needs?



The top-ranked issue for surveyed advisers in relation to Best Interests Duty compliance are insurance product features (the more relevant the better), followed by premiums (the lower the better) and the insurer's claims record.

In assessing your Best Interests Duty compliance when providing risk advice, in what order do the following issues rank?

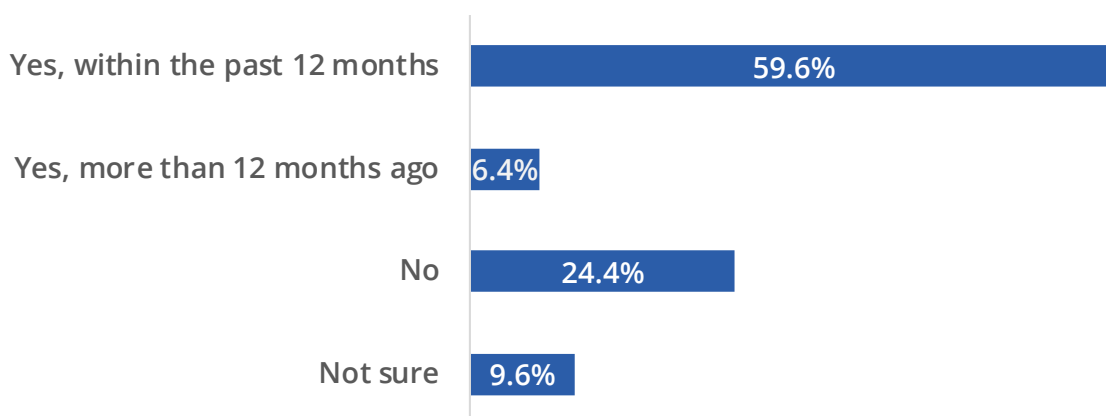


ADVISERS ARE BEING TESTED ON THEIR BEST INTERESTS DUTY COMPLIANCE BY THEIR LICENSEE

The surveyed advisers' compliance with their Best Interests Duty obligations is tested rigorously by their licensee, with almost 60 percent of the advisers saying they've been asked by their licensee to provide compliance evidence within the past 12 months.

66 percent of the advisers have been asked by their licensee to provide evidence of compliance with their Best Interests Duty obligations within the last 5 years, while 60 percent of advisers have been asked within the last 12 months.

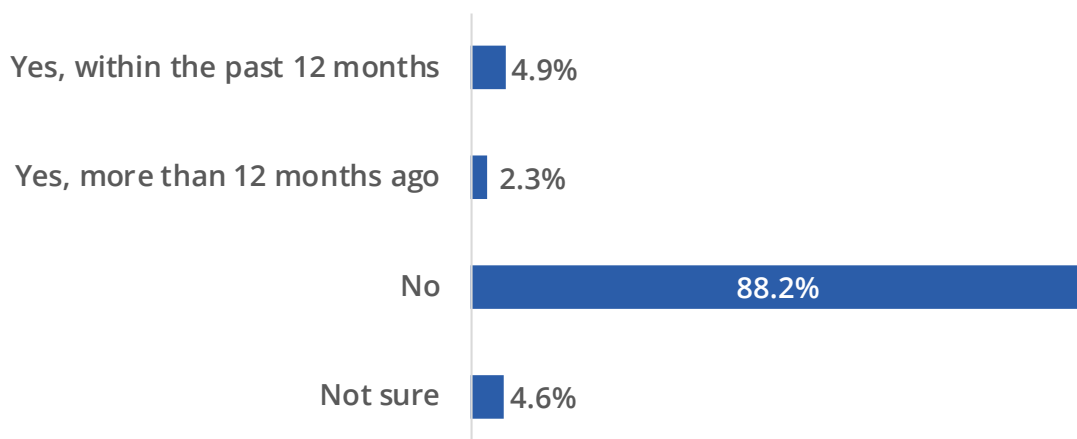
Have you been asked by your licensee to provide evidence of compliance with your Best Interests Duty in relation to any advice provided in the past five years?



n = 191

Fewer than 7 percent of all the surveyed advisers have been asked by ASIC to provide evidence of compliance with their Best Interests Duty at any time in the past five years (about 4.6 percent say they are "not sure" if they've been asked). An overwhelming 88 percent of the advisers have never been asked by the corporate regulatory to prove Best Interests Duty compliance.

Have you been asked by ASIC to provide evidence of compliance with your Best Interests Duty in relation to any advice provided in the past five years?





APPENDICES

APPENDIX 1: The Best Interests Duty

Corporations Act 2001 - s961b

Provider must act in the best interests of the client

- (1) The provider must act in the best interests of the client in relation to the advice.
- (2) The provider satisfies the duty in subsection (1), if the provider proves that the provider has done each of the following:
- (a) identified the objectives, financial situation and needs of the client that were disclosed to the provider by the client through instructions;
 - (b) identified:
 - (i) the subject matter of the advice that has been sought by the client (whether explicitly or implicitly); and
 - (ii) the objectives, financial situation and needs of the client that would reasonably be considered as relevant to advice sought on that subject matter (the client's relevant circumstances);
 - (c) where it was reasonably apparent that information relating to the client's relevant circumstances was incomplete or inaccurate, made reasonable inquiries to obtain complete and accurate information;
 - (d) assessed whether the provider has the expertise required to provide the client advice on the subject matter sought and, if not, declined to provide the advice;
 - (e) if, in considering the subject matter of the advice sought, it would be reasonable to consider recommending a financial product:
 - (i) conducted a reasonable investigation into the financial products that might achieve those of the objectives and meet those of the needs of the client that would reasonably be considered as relevant to advice on that subject matter; and
 - (ii) assessed the information gathered in the investigation;
 - (f) based all judgements in advising the client on the client's relevant circumstances;
 - (g) taken any other step that, at the time the advice is provided, would reasonably be regarded as being in the best interests of the client, given the client's relevant circumstances.

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