

Agency: Australian Small Business and Family Enterprise Ombudsman
Question No: QoN 038
Topic: AMP
Member: Senator O'Neill

QoN038-01 AMP BOLR

a) Did you find that AMP were in fact required to give 13 months' notice to AMP financial planners under the terms of the Master Terms Agreement?

Answer:

We have received copies of several iterations of AMPFP's Buyer of Last Resort (BOLR) Policy document date up until mid-2019, and which was included in the AMP Financial Planning Master Terms Agreement.

On 8 August, AMPFP reduced its commitment to buy back AMP client books from planners under their BOLR policy. As at 8 August 2019, it was a term of the BOLR policy (and therefore a term of each AMP AR's Agreement) that:

- unless a shorter period of notice was agreed to by the AMP Financial Planners Association (AMPFA), AMPFP would provide 13 months' notice of a change to the valuation methodology for registers and any other change to the BOLR policy having a materially adverse financial or other significant effect on a practice.
- subject to the above, AMPFP could make any other changes to the BOLR policy following consultation with AMPFPA.
- if legislation, economic or product changes occurred that rendered any part of the BOLR policy inappropriate, then AMPFP could make any change to the BOLR policy that was reasonably necessary to make the BOLR policy appropriate in the light of those changes, provided AMPFP first consulted with AMPFPA about the change (but without the need to give 13 months' notice).

In discussions with AMPFP, we were advised that they advised AMPFPA of the changes prior to the changes occurring, thereby (in AMP's stated view) satisfying the requirement to consult with AMPFPA.

The validity of the BOLR changes is the subject of a class action, and we are unable to make a formal finding of fact in this regard.

b) Did you find that AMP had delayed the buybacks of financial planning businesses by months and even over a year till after they changed the valuation of the books in late 2019?

Answer:

This Office did not receive evidence of AMPFP delaying buybacks from AMP ARs. However, 14 AMP ARs reported that they applied for and were accepted for a BOLR exit prior to 8 August 2019. In these cases, AMPFP applied the reduced rate (i.e. 2.5 multiple) on the AMP AR's exit from AMPFP, where that exit had been scheduled to, and did occur, after 8 August 2019.

c) What were the substantial differences between the BOLR audits, which many planners failed and subsequently had the value of those clients stripped off the sale, and the previous audits which many of those same planners had passed, for years at this point?

Answer:

Exiting AMP ARs were required to undertake a BOLR audit prior to exit. This audit re-examines activities of AMP ARs that were previously audited by AMPFP throughout their tenure as an AMP

AR. At the conclusion of the audit, the AMP AR was given a score out of 100. AMP ARs have reported that they were required to obtain a minimum pass mark of 85% in order to receive their full BOLR value at 2.5 multiple.

31 AMP ARs have reported an incongruence between the results of their BOLR audits, and previous regularized audits.

These AMP ARs have expressed a view that the 'exit audit' process had the effect of reducing BOLR valuations where even minor failures were found. These AMP ARs advise that they had limited or no opportunity to appeal these audits. Affected AMP ARs claimed to have had excellent outcomes from previous audits. AMP ARs reported that historical records were assessed against current requirements rather than contemporary requirements, or contemporary AMPFP policy. This Office also received reports that exit audits appeared to be much more extensive than the ASIC look back program required.

In 9 instances, AMP ARs also reported incurring book value reductions through the BOLR audit process where the failures were attributable to clients acquired from AMP, and the failures pointed to existed in the files prior to the date of purchase from AMP.

d) Do you believe that AMP, as the licensor, had a responsibility to make sure that its licensees were compliant? Isn't that what they were paying AMP for?

Answer:

It has been clear in our discussions with AMP ARs who sought assistance from this Office that they felt that they were compliant with AMPFP policies and procedures as those policies and procedures existed at the time.

e) Did you find that all of the people that had contacted you had their business value completely gutted by the BOLR process?

Answer:

While all AMP ARs who have contacted this Office reported some reduction in book value, 57 AMP ARs have reported significant reductions in their business valuation following the change in the BOLR multiple and unfavorable BOLR audit results. The BOLR change taken in isolation would amount to a reduction of 38% of book values but AMP ARs have reported business values being reduced up to 80% following the BOLR audit, 'Lookback' audit, and broader exit process.

f) Have you heard that AMP is selling books bought back from planners at three times annual revenue?

Answer:

On 10 May 2021 we requested the following information from AMPFP:

- The number of ARs who have exited AMPFP since 8 August 2019, and:
 - the total amount paid for their client books ("the client books");
 - the total amount received by AMPFP for any on-sale of the client books in whole or in part.

AMPFP informed this Office that due to market sensitivity they are unable to disclose the amount paid for or received for the books however, from the books they have acquired they have taken a negative financial impact of 53%.

Note:

The answers provided are based on information provided to us by the 116 AMP Authorised Representatives (AMP ARs) who have sought assistance from this Office. In many instances, AMP ARs have provided an impact statement to our Office, which have been validated where possible. In some instances supporting documentation has not been available, and confidentiality agreements prevent full disclosure by AMP ARs.

It is important to note that not all AMP ARs have provided the same information to this Office during our work with them, and while attempts have been made to standardize information received from planners, this has not always been possible.

The work of the Office to date has been to:

- 1. Provide direct assistance to AMP ARs who request it, including offering guidance on alternative dispute resolution options and facilitating communication between the AMP ARs and AMP Financial Planning (AMPFP). This has included arranging mediation where appropriate.*
- 2. Facilitating communication between AMPFP and AMP ARs (and their representatives) in relation to policies and practices that have that have directly impacted the parties.*

As the Committee is aware, this Office is unable to provide rulings or decisions on these matters, nor provide advice on the legal position of the AMP ARs.