

Best Interests Duty Process

The essential steps to compliance with Best Interests Duty



The **conflict priority rule** means that you must not recommend a product or service of a related party that would create extra revenue for yourself, your credit licensee or another related party, unless doing so would also be in the consumer's best interests. **If you cannot prioritise the customer interest above your own, do not proceed.**



Provide a **Credit Guide** when it is likely you will provide credit assistance. A **Privacy Consent** should be issued at the same time. Must have evidence that all applicants have received the Credit Guide. Best evidence is to get consumers to sign both documents (digital signature with audit trail or a 'wet' signature).



Provide a **Credit Quote** if you will be charging a brokerage fee for the credit assistance being provided (particularly relevant for asset finance). Must be provided when it is likely you will provide credit assistance. Clawbacks provisions are prohibited (and any fee structure that otherwise resembles a clawback). Must be signed.



Collect relevant information (**conduct Client Needs Analysis**). Personal information including ID evidence should be sourced. Information on the client's personal circumstances, financial situation, loan purpose / goals, needs and objectives, product and lender preferences should be collected.



Investigate options, **prioritise goals and features**. Conform current and future financial position (reasonable foreseeable changes). **Educate clients** on relevant grants / incentives, product risks / benefits. Explain to clients in a manner that is fit for purpose. Document your investigation and analysis of the client's preferences and priorities.



Present options to the client from your lender panel. In your product comparison, you should display a range of options (3 products recommended) based on their preferences and priorities previously discussed. From the products compared, **provide your recommendation and justification** on why it is in the client's best interests.



When presenting the recommendations to the client **ensure that you have included cost of the loan as part of the comparison**. The costs may relate to interest rate, repayment relative to loan term, and fees and charges. The cost of the loan must be compared against the client's priorities and whether lender policy supersedes cost.



Provide your assessment and recommendations to the client(s) by generating the **Preliminary Credit Assessment** and **the Credit Proposal**. Ensure that you have entered sufficient information into the relevant fields in SFGconnect (Compliance Comments and Documents tab) as this information populates into the compliance documentation to be provided to the client(s).



You cannot recommend a product or lender where **conflicted remuneration** has been identified. Conflicted remuneration relates to any situation where you will receive any benefits (monetary or non-monetary) that could influence the loan you recommend.

Best Interests Duty

Monitoring your risks with BID

CAUTION

MULTIPLE ROLES

You must not act to further your interests in situations where you may have multiple roles on the same or related transactions (you are a broker and also operate as a real estate agent / financial planner/ accountant etc).

CAUTION

DISCLOSING CONFLICTS

You cannot comply with the conflict priority rule merely by disclosing a conflict of interest or having the consumer consent to a conflict. You must be able to articulate the benefit to the consumer by being able to record why the actions you have taken will prioritise the interests of the consumer over your own or those of a related party.

CAUTION

DATA COLLECTION

A mortgage broker who provides incomplete or inaccurate information as part of a home loan application will not be acting in the client's best interests, even if the inaccurate information would increase the likelihood of approval or give the customer access to better terms.

CAUTION

PRESENTING OPTIONS

You should present a client with more than one option. It is recommended that you present the client with a shortlist of options with one option being the recommended option. If all options are from one lender, the reason for this should be provided.

CAUTION

LENDER SPREAD

Your lender accreditations must allow you to facilitate loan applications for the majority of consumers that you most consistently deal with. Being aware of the products and features that are available in the market (and through client requests) may help you to determine whether your accreditations are sufficient.

CAUTION

LOWEST COST OPTION

Failure to investigate and consider the lowest cost option may suggest non-compliance. Evidence is required to support a higher cost option (note that lowest rate may not dictate lowest cost and other product features will impact on 'cost').

CAUTION

PROVIDING INFORMATION

When explaining product risks and benefits, you should provide information in a manner that is fit for purpose of the client and provide further explanations as appropriate. Avoid complex jargon and terminology where possible.

CAUTION

CLARIFY INFORMATION

Clients may sometimes provide information that is ambiguous, unclear or inconsistent with their circumstances and goals. In these situations, you should make further inquiries to clarify the client's circumstances prior to recommendation.

CAUTION

ANTI AVOIDANCE

Brokers cannot purport to contract out of the Best Interests Duty via any scheme or conduct under the anti-avoidance provision in Section 158T of the National Consumer Credit Protection Act 2009 ("NCCP"). Brokers found to have breached the anti-avoidance provision may be liable for a civil penalty under the NCCP.