

'BFID' IN PRACTICE

Establishing a Best Financial Interests Decision-Making Framework

It goes without saying that the new Best Financial Interests Duty (**BFID**) obligations are central to not just a superannuation trustee's governance framework, but also its operational framework.

As readers will be aware from our previous articles on this subject, we are seeking to assist superannuation trustees to understand the duty and to implement a practical BFID management framework.

In this article, we set out some practical distillations which should assist in the implementation process.

As a first for us, this article (apart from this introduction) is formatted as a graphic presentation.

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Trustee Operational Frameworks – some considerations

If Yes

Is the matter a power or duty?

- Most matters will involve the exercise of a duty or power.
- There may, however, be matters which are in the nature of administrative matters and therefore, do not come within the ambit of BFID.
- There may also be compulsory exercises of power or exercises of power subject to restrictions which should not be treated as subject to the obligation; e.g. under the SIS legislation, giving effect to a binding death benefit nomination should not require a consideration of BFID.

Does the matter affect the financial interests of members?

- Matters affecting the financial interests of members are generally ones which improve financial performance or affect the outlavs of the fund.
- Some matters will not be financial in nature: e.g. matters which relate to internal fund administration or a resolution to increase the number of non-executive directors on the Board.
- On one view, every trustee action could be seen to be relevant to BFID, but a legal view needs to be taken to narrow the ambit from a practical perspective.

Does the matter affect the financial interests of members with sufficient directness?

There may be matters, such as the provision of some member services which do impact on members' financial interests, some with sufficient directness and some with insufficient directness. E.a.:

- the provision of financial advice may be sufficiently direct;
- the change of certain service providers may not be sufficiently direct.

- Is the matter one where an assessment is required because the impact is favourable to only some members but not favourable, or potentially unfavourable or neutral to others?
- Otherwise an assessment should be undertaken due to the likelihood of regulator or member scrutiny; e.g. having regard to statements issued by APRA or ASIC.

Should the trustee nevertheless perform an assessment because the matter is an exception to the rule?

- Even if some analysis has been undertaken, it may be necessary to revisit that analysis given changes in circumstances or due to exceptional factors.
- An exception might cover:

If Yes

If No

- · matters which are sensitive;
- matters which are large in amount; or
- matters where the result of the expenditure is speculative and cannot be mathematically determined.

If No

Does the matter require a specific determination or is it captured by a general policy formulation?

- Macro decisions regarding fund expenditure may be determined at strategic or budget sessions with attendant analysis of members' financial interests. Those macro decisions may then authorise a number of micro implementation decisions, which do not require separate assessment due to the macro decision-making process.
- There may be matters that are at a micro level and while subject to BFID, they will be part of an overall policy of the trustee (such as a policy on marketing expenditure) and therefore, will not require a separate BFID determination.

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Evidencing trustee determinations



KEY CONTACTS

Need more information or assistance?

If you would like more information or assistance, please do not hesitate to contact one of our team members below for one or more of:

- · a presentation tailored to your fund;
- assistance in formulating an "artefact" for compliance with BFID;
- · a review of any existing processes and procedures.



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