

DISCLOSING PRODUCT CONFLICTS ‘NOT ENOUGH’: CONSULTANT

August 22, 2019
[ADRIAN FLORES](#)

<https://www.ifa.com.au/news/27095-disclosing-product-conflicts-not-enough-consultant>

Advisers need to take appropriate steps to prioritise their clients’ interests above their own, and it’s not enough for an adviser to merely disclose the conflict, warns a financial services law firm.

In a blog, The Fold Legal solicitor director Simon Carrodus said the adviser must explain why the in-house product is likely to leave the client in a better position and how it is more likely to satisfy the client’s needs and objectives (versus the client’s existing product).

Mr Carrodus noted that in ASIC’s Report 562 and Report 515, the regulator pointed to the fact that often there was nothing on file to demonstrate that the adviser had complied with the best interests duty and related obligations.

He added that even if the adviser hadn’t breached the law, there was no evidence that the adviser had complied with the law.

“This explanation should be captured and properly documented as part of the advice process. The message from ASIC is clear – if it’s not documented on file, it didn’t happen,” ASIC said.

Mr Carrodus said that if a client has an existing product, advisers may consider recommending a switch to a new product (including an in-house product) if it is in the client’s best interests to do so.

He said a good time for an adviser to consider a switch is if the client’s existing product is inappropriate for them, taking into account their needs and objectives.

“However, if the client’s existing product is appropriate for them and capable of meeting their needs and objectives, it will be difficult to justify a switch,” Mr Carrodus said.