

Royal Commission into Misconduct - GPS Wealth Ltd (AFSL 254 544; Australian Credit Licence 254 544) - Misconduct events - January 2013 to current

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Aug-17	Aug-17	As part of ongoing surveillance commenced by ASIC in respect to Line number 35 of this table below, in Sept 2015, it was identified by an external auditor that there were breaches of Sec 961B where advisers had provided weak rationale for replacement product advice. This surveillance is ongoing. New SOA's provided to identified affected clients and new processes implemented to manage this breach.	ASIC	None	N/A	Yes	N/A
Jul-17	No	When requesting copies of files when the adviser notified us of leaving to join another licensee, the adviser did not have information in a format to provide us. The files were to be provided in accordance with his obligations under GPS Record Keeping Policy. The adviser is now fixing the files and will be providing them to us. This is a breach of professional standards.	N/A	None	N/A	N/A	No
Dec-17	No	Adviser had failed to provide Fee Disclosure Statements (FDSs) to some clients in accordance with section 962G of the Corporations Act believing that as he had instead provided new SOAs where the client had signed a new authority to proceed, these were not required. That would have been the case if the SOA did not have a section on 'providing an ongoing service'. FDS' are being provided to the impacted clients.	N/A	None	N/A	N/A	No
Dec-17	No	Ongoing advice provided to a client that led to an excess Non-Concessional Contribution (NCC). An ATO Excess Contributions notice was subsequently sent to the client. This was a breach of Section 961B of the Corporations Act - not in the best interests of the client in relation to the advice provided. The calculated amended tax impact was \$539. The client was compensated for the additional tax incurred. \$750 compensation agreed and paid to client in December 2017.	N/A	None	N/A	N/A	c\$750
Oct-17	To be Advised	Whilst operating under a client's explicit and implicit approval to access information in order to provide appropriate advice to act in Best Interest under S961B, this adviser used the client's identity on the phone to a product provider to try to achieve this. However there was no intent to gain money or property hence it was a false representation under the ASIC Act and misleading and deceptive conduct. This adviser was terminated on 16 January 2018. As a result of our findings from the Royal Commission inquiry, an FS80 is to be submitted to ASIC.	ASIC (to be lodged)	None	N/A	N/A	No
Nov-17	Nov-17	Adviser lodged application forms prior to the Statement of Advice being given to the client, which was in breach of Section 946C of the Corporations Act. This case was deemed reportable given previous cases and an FS80 form was submitted to ASIC	ASIC	None	N/A	No	No

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Aug-17	No	Adviser insurance cases where application forms were lodged prior to the Statement of Advice being given to the client, which was in breach of Section 946C of the Corporations Act - Statement of Advice is not given to the client when the advice is provided. This was subsequently downgraded to an Incident as the applications were for pre-assessment and not a final application. This is a breach of professional standards.	N/A	None	N/A	N/A	No
Sep-17	No	One particular adviser had failed to provide a Fee Disclosure Statement (FDS) to a client on time in accordance with section 962G of the Corporations Act. An FDS was subsequently provided to the client.	N/A	None	N/A	N/A	No
Sep-17	No	Each Adviser accepted a soft dollar benefit over \$300 from an insurance provider's dinner – \$426 per person breaching the \$300 limit by \$126. Given the view of the Insurance providers legal team that the difference of \$126 is 'not material' that no further action was warranted. For the three advisers in question they have been asked not to participate in any insurance providers 'hospitality type' events for 12 months from the date of this specific event. This is a breach of professional standards.	N/A	None	N/A	N/A	No
Aug-17	No	An adviser may have breached the Sole Purpose Test as per SIS Act Section 62, (to be decided by the auditor of the SMSF) whereby fees were paid via super product when there was some non-super advice in the SoA ie should have been split between being paid by super product and paid via invoice or non-super investment product.	N/A	None	N/A	N/A	No
Jul-17	No	(i) An adviser provided verbal advice on making NCC's prior to 30 June 2017 however a 'time critical' letter was not written until 4 days after the verbal advice (the time critical letter should have been given on the day that the verbal advice was given) which was in breach of Section 946C of the Corporations Act . (ii) In addition, the SoA was given 37 days after the advice when it should have been given to the client within 30 days of the verbal advice in terms of the ASIC's Corporations (Urgent Superannuation Advice) Instrument 17-530	N/A	None	N/A	N/A	No
Jul-17	No	Adviser on leaving GPS Wealth did not appear to have files for clients where he was receiving remuneration. It was subsequently determined it was trail commission from insurance policies and no advice was provided under GPS Wealth's license. This is a breach of professional standards.	N/A	None	N/A	N/A	No
Jul-17	No	An adviser failed to provide a statement of advice for a client which was in breach of Section 946A - Corporations Act. The adviser subsequently prepared an SOA being more than 3 weeks after the verbal advice.	N/A	None	N/A	N/A	No

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Feb-17	No	<p>Poor post advice process with client claims of no paperwork, no fees details and unclear risk policies, being a breach of S952E of the Corporations Act - providing a disclosure document or statement that is defective. This occurred, when Adviser was under another AFSL (Synchron). Paperwork including SOA's existed for this client, however it appears this issue arose after a marriage breakup. The client said she did not receive any service and the adviser being her ex husband disputed this.</p> <p>Despite being another AFSLs advice, client nevertheless submitted a FOS Case (#486249) on GPS Wealth. To resolve this matter, in an email of 11 July 2017 GPS offered the complainant a return of her last two years' adviser fees totalling \$630 (\$315 x 2) as a full and final settlement of any claim against GPS Wealth. On the same day, the complainant responded that this is a "very fair offer and I full accept the offer". On 12 July 2017 FOS advised that they had closed Case #486249 as being "resolved by the financial services provider". This is a breach of professional standards.</p>	N/A	None	N/A	N/A	A return of client's last two years' Adviser fees totalling \$630 (\$315 x 2)
Mar-17	No	In preparing advice for a client this Adviser made an administration error related to a state government entity tax benefit in 2015/16 tax year for contributions made. The tax deductions was not accepted by the state government entity, therefore the adviser breached Section 961B of the Corporations Act - not in the best interests of the client in relation to the advice provided. The client was compensated for the adverse tax impact and agreed to this.	N/A	None	N/A	N/A	The adviser agreed to reduce the client fees by \$6k per annum over next 10 years whilst continuing to provide the full normal services, which the client agreed to
Feb-16	No	An adviser (an accountant recently authorised under a limited authority to provide advice on SMSF only) in place of SoAs had provided documents to the clients called 'Memorandums of Advice' which did not have Statement of Advice on the front and were incomplete in respect to what GPS required in a Statement of Advice. This was in breach of Section 946A - and S952E of the Corporations Act. The adviser subsequently prepared the SOAs and provided to clients.	N/A	None	N/A	N/A	No
Dec-16	No	Adviser had failed to provide a Fee Disclosure Statement (FDS) to three clients in accordance with section 962G of the Corporations Act. An FDS was subsequently provided to each client.	N/A	None	N/A	N/A	No
Dec-16	No	An adviser failed to provide a FSG to client prior to providing client advice, which was in breach of sections 941A, 941B and 941D(1) - of the Corporations Act. An FSG was subsequently provided at a later date in the advice process.	N/A	None	N/A	N/A	No
Oct-16	No	An adviser failed to provide the current version of a FSG to client, which was in breach of section 941E - of the Corporations Act. Current version of FSG was subsequently provided to client.	N/A	None	N/A	N/A	No
Oct-16	No	Adviser did not have Direct Equities accreditation in accordance with GPS policy and provided advice to client to divest equities. Adviser required to complete accreditation course. This is a breach of professional standards	N/A	None	N/A	N/A	No

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Oct-16	No	Adviser failed to rollover a Term Deposit (TD) on maturity, resulting in some lost interest between the date re-establishing the TD and the rate that would have been in place on rollover, which was in breach of Section 961B of the Corporations Act and a breach of professional standards	N/A	None	N/A	N/A	Adviser paid client \$10k representing the TD interest that was lost on re-establishing the TD (the client agreed to this)
Sep-16	No	Adviser set up an SMSF with a Limited Recourse Borrowing Arrangement (LRBA) before the Statement of Advice was prepared and presented, which was in breach of Section 946C of the Corporations Act . A SOA was subsequently provided to client.	N/A	None	N/A	N/A	No
Sep-16	No	An adviser failed to provide an Opt In invitation for two clients, which was a breach of section 962K of the Corporations Act . Clients later advised they no longer required the services. Both clients were given refunds for past year's fees, totalling \$1,522.	N/A	None	N/A	N/A	Adviser ensured all advice fees were refunded back to the date of the clients' last service agreement expired. Both clients refunds were processed totalling \$1,522.
Aug-16	No	Application forms were lodged prior to the Statement of Advice being given to the client, which was in breach of Section 946C of the Corporations Act .	N/A	None	N/A	N/A	No
Aug-16	No	Adviser did not have Direct Equities accreditation in accordance with GPS policy and provided advice to client to divest equities. Adviser required to complete accreditation course. This is a breach of professional standards.	N/A	None	N/A	N/A	No
Jun-16	No	Adviser failed to provide a FSG to 2 clients prior to providing client advice, which was in breach of sections 941A, 941B and 941D(1) of the Corporations Act. An FSG was subsequently provided.	N/A	None	N/A	N/A	No
Nov-15	No	Adviser provided inappropriate superannuation advice that resulted in ineligible personal tax deductions for the year ended June 2015, which was in breach of Section 961B of the Corporations Act . The client incurred an estimated loss of \$7,730 relating to their 2014/2015 tax return. This amount was subsequently paid to the client in January 2016.	N/A	None	N/A	N/A	The estimated loss of \$7,730 relating to client's 2014/2015 tax return was paid to the client in January 2016

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May-16	30/05/2016	<p>Suspected Breach of S1531 of the Corporations Act - arising from charging a Portfolio Management Fee on the part of the portfolio which is borrowed. Form FS80 submitted to ASIC.</p> <p>The 2 platform providers were contacted to advise them of the breach and to seek their co-operation in identifying the affected clients and come to a workable solution going forward, in one case the platform providers legal advice was that it wasn't a breach, whilst in the other case they confirmed their internal processes did not allow it but they had no clients that were affected - hence a breach but no clients cases affected. The reason for the difference was in the structures and the differing legal opinions. Given these findings it was recorded as a breach but no client refunds were required.</p>	ASIC	None	No	No	No
Jun-15	No	An adviser inappropriately implemented advice related to transitioning from accumulation to pension phase. The asset sell down was incorrectly done during accumulation rather than pension phase, hence a CGT liability arose. The client was compensated for the CGT liability. A breach of professional standards.	N/A	None	N/A	N/A	Adviser paid the client \$13k to cover the CGT liability
Jan-16	26/1/16	This adviser misconduct arose from an inappropriate advice provision operating model and practice, including the use of offshore agents. This was a breach of S952E of the Corporations Act - providing a disclosure document or statement that is defective. This case was considered significant enough to be reportable and a Form FS80 was submitted to ASIC.	ASIC	None	No	No	No
Aug-15	2/9/15	<p>Pre and post July 2013 Adviser breaches, as per -</p> <p>(i) Breach of S946C of the Corporations Act - arising from Risk Statement of Advice not provided on time.</p> <p>(ii) Breach of S945A of the Corporations Act (pre 1/7/13), and breach of S961B of the Corporations Act. This related to Insufficient documented evidence to prove both a reasonable basis for risk advice (s945A) and to establish that the adviser has acted in the best interest of the client, incl. replacing insurance policies. This covered risk advice both pre 1 July 2013 (s945A) and from 1 July 2013 (s961B).</p> <p>Form FS80 submitted to ASIC on 2/9/15 to cover both breaches</p>	ASIC	None	N/A	Yes	No
Aug-15	2/9/15	<p>Related to the above entry, an AFSL breach re Class Order 14/923 -</p> <p>(iii) Breach of S912 of the Corporations Act - obligations of AFSLs and Breach of CO 14/923 regarding failure to ensure advisers keep good records.</p> <p>Form FS80 submitted to ASIC on 2/9/15</p>	ASIC	None	No	No	No
Aug-15	No	Various breaches by adviser pursuant to sections S952D, 945A and 947D re defective statements of advice and additional requirements when advice recommends replacement of one product with another. All breaches were rectified.	N/A	None	N/A	N/A	No

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Oct-15	No	Various breaches by adviser pursuant to sections S952D, 945A and 947D re defective statements of advice and additional requirements when advice recommends replacement of one product with another. All breaches were rectified.	N/A	None	N/A	N/A	No
Dec-15	No	Adviser implemented trauma policies without recommendations being shown in the SoA, which was in breach of section 952E of the Corporations Act - providing a disclosure document or statement that is defective.	N/A	None	N/A	N/A	No
Dec-15	No	Adviser failed to re-disclose premiums and commissions to the client when more expensive product features were chosen. The SOA was defective and was in breach of S952E of the Corporations Act . A revised SOA was prepared.	N/A	None	N/A	N/A	No
Mar-16	No	Advice provided to 2 clients without the provision of a SoA, which is in breach of S946C of the Corporations Act - Statement of Advice is not given to the client when the advice is provided. Clients insisted they did changes to existing policies themselves (with a little guidance from the adviser). SOAs were subsequently prepared and provided to the 2 clients.	N/A	None	N/A	N/A	No
Sep-15	No	An adviser failed to provide FDS and Opt-In- in respect of clients coming across from the Adviser's previous employer the Adviser had incorrectly assumed that the date their policies and super were transferred would be the date for their FDS obligations and Opt In for future. This was in breach of section 962G re provision of FDS and section 962K of the Corporations Act. Both FDS and Opt In were subsequently provided.	N/A	None	N/A	N/A	No
Jul-15	No	Several advisers had advised on products outside the APL based on what was available on a platform. All advisers were communicated to that they must stick with what is on the Approved Product List irrespective of what was available on an approved platform. Breach of professional standards.	N/A	None	N/A	N/A	No
Jun-15	No	The adviser implemented advice by moving a client from accumulation to pension phase prior to provision of SOA through inappropriately and incorrectly applying Time Critical criteria, which was in breach of section S946C of the Corporations Act.	N/A	None	N/A	N/A	No
Mar-15	No	The SOA provide advice which was incorrect re the rolling over of a state government entity fund into the client's SMSF. A breach of Section 952E of the Corporations Act and Section 961B . A service fee refund amount of \$3,463.00 was made to the clients on 25 March 2015 which they accepted as compensation.	N/A	None	N/A	N/A	An amount of \$3,463.00 was refunded to the clients on 25 March 2015.
Apr-15	No	An adviser did not provide client with an SoA when converting from an accumulation super account to a pension phase account based pension in Aug 2014, which was in breach of section S946C of the Corporations Act . An SOA was subsequently provided.	N/A	None	N/A	N/A	No

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Jan-15	No	Inappropriate use of the Time Critical process by a Risk adviser for a number of risk advice cases, which was in breach of section S946C of the Corporations Act .	N/A	None	N/A	N/A	No
Oct-14	No	Adviser failed to have a client sign an Authority to Proceed in breach of GPS Wealth Policy. Breach of professional standards.	N/A	None	N/A	N/A	No
May-14	No	Inappropriate use of the Time Critical process by a Risk adviser for a number of risk advice cases, which was in breach of section S946C of the Corporations Act . An SOA was ultimately provided.	N/A	None	N/A	N/A	No
Jan-14	No	Adviser failed to cancel an existing insurance policy following the implementation of a new policy. The client lodged a complaint with FOS . The Adviser agreed to immediately refund the client the money (\$144.40) he wants. FOS complaint was withdrawn by client. This was a professional standards breach.	N/A	None	N/A	N/A	Refund of \$144.40 to the client 15/1/14
Nov-13	No	Inappropriate use of the Time Critical process by a Risk adviser for a number of risk advice cases, which was in breach of section S946C of the Corporations Act - Statement of Advice is not given to the client when the advice is provided. An SOA was ultimately provided.	N/A	None	N/A	N/A	No
Sep-13	No	Consideration whether the clients existing insurance cover was suitable had not been documented in the SoA and considered as part of strategy. A breach of section 945A.	N/A	None	N/A	N/A	No
Oct-13	No	Product advice and quotes provided by Adviser to the clients with Discussion Papers before written advice in a SoA was provided, being a breach of section S946C of the Corporations Act . SOA was subsequently provided.	N/A	None	N/A	N/A	No
Sept 2013	26/9/13	Pre July 2013 Adviser forged client's signature on document however there was no intent to gain money or property hence it was a false representation under the ASIC Act and misleading and deceptive conduct. Reported to ASIC and adviser was terminated with 2 week's notice. Breach of professional standards as well.	ASIC	None	No	No	No
Jan-13	No	Pre July 2013 - An Adviser breached Section 945 of Corporations Act re 'Know Your Client' obligations - he did not demonstrated in SOA why the client needs the level of cover. It had been explained in other emails/docs, but the SOA should include this information. New SOA provided.	N/A	None	N/A	N/A	No