

#62

COMPLETE

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Q1 Overall, do you agree or disagree with [standard 1] and proposed commentary? **Agree**

Q2 Please provide any comments on [standard 1] and the proposed commentary.

Please see our response for standard 4&5.

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Q3 Overall, do you agree or disagree with [standard 2] and proposed commentary? **Agree**

Q4 Please provide any comments on [standard 2] and the proposed commentary. **Respondent skipped this question**

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Q5 Overall, do you agree or disagree with [standard 3] and proposed commentary? **Agree**

Q6 Please provide any comments on [standard 3] and the proposed commentary. **Respondent skipped this question**

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Q7 Overall, do you agree or disagree with [standard 4] and proposed commentary? **Agree**

Q8 Please provide any comments on [standard 4] and the proposed commentary.

We agree in general with the standards 4&5 and the commentary in these 2 standards

We note the replacement example in standard 4 refers to a financial adviser and the nature and scope of the financial advice given 'excludes a comparison between an existing and the new policy'.

However, the adviser is still expected to explain to the client that there are some situations that are covered under the existing policy (including specific benefits, premiums applicable now and in the future, health events or life events) that may not be covered under the new policy, and conditions that may apply because of the replacement (such as a requirement for underwriting, loading as a result of the change in health circumstances, and any stand down periods).

In this regard we assume this means general advice on product replacement risks can be provided, if this fact is made clear to clients. (This is pertinent to standard 5 as well.)

This is a key point for both standards.

Many FAPs only provide advice on their own product set, and do not promote or advise on 3rd party financial products. As such they, are unable to undertake comparative analysis of competitor's products or services. (They will not have had access to or training on those products and prices beyond what is available to the general public etc). In such a situation a comparative analysis is obviously practically difficult if not fraught and undesirable from a consumer perspective.

Conversely, where FAs have access to sell and advise on various product provider ranges, it would undermine standard 5, and standard 1, if FA's are able to describe themselves as independent and advise and sell on multi-products, but 'opt out' of providing an analysis, simply by saying it is excluded from scope with no explanation. This runs the risk of the customer not understanding why they have been advised on one product and not others, which in turn raises issues of actual or perceived conflicts. If this is not intended, it would assist if the overall 'scope of advice' point was made clearer in the standards. E.g. that comparative analysis and similar exercises should take place where the FA/FAP/NR has access and expertise to advise and sell the various products to be compared but not otherwise and where it is not done the fact they are not being done and the reasons why are made clear.

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Q9 Overall, do you agree or disagree with [standard 5] and proposed commentary? **Agree**

Q10 Please provide any comments on [standard 5] and the proposed commentary.

We agree in general with the standards 4&5 and the commentary in these 2 standards

We note the replacement example in standard 4 refers to a financial adviser and the nature and scope of the financial advice given 'excludes a comparison between an existing and the new policy'.

However, the adviser is still expected to explain to the client that there are some situations that are covered under the existing policy (including specific benefits, premiums applicable now and in the future, health events or life events) that may not be covered under the new policy, and conditions that may apply because of the replacement (such as a requirement for underwriting, loading as a result of the change in health circumstances, and any stand down periods).

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Q11 Overall, do you agree or disagree with [standard 6] **Agree** and proposed commentary?

Q12 Please provide any comments on [standard 6] and the proposed commentary.

Disagree.

Although the draft Standard mirrors to some extent, it also overlaps and exceeds the substance aspects of the existing Privacy Act principles and developed privacy case law. We submit that compliance with the principles of the Privacy Act and the provisions of that Act sufficiently cover advisers and entity activities and provides sound protection. We also note substantial new changes in the laws governing personal information to enhance consumer protection are already well developed and expected shortly, and Business' including future FAs and FAPs have been preparing for those changes for some time.

If there was evidence of a need for more additional detailed regulation in the financial services' sphere, e.g. a detailed code to protect consumers of financial products and services information, then this should be more widely consulted on and would be something the OPC should lead with FMA involvement and ensure it is well harmonized with wider privacy and data protection laws (in the way health information has additional regulation applying to it).

However, absent that, the proposed approach of a single standard will, in our view, lead to interpretation issues and uncertainty for Businesses. We believe this alone would be undesirable, however the existence of multiple standards and jurisdictions (between the OPC and the FMA for example) could also lead to unintended consequences, in what is a complex, fast moving operational area (data and data governance). To take some initial examples of uncertainty created by the draft standard:

- Disclosure to third parties is only allowed if required by law. It does not allow for disclosure where a law provides a discretion to do so. For example, under the Privacy Act law enforcement. This restriction then contradicts a statement in the commentary referencing laws 'enabling' the disclosure of client information e.g. AMLCFT Act) 'where required or enabled by law.'
- The client 'agrees otherwise'. It is unclear what this means in law. Is it a passive or active acceptance and when, how often etc? The Privacy Act already requires notification of this information and developed law has clarified that notification must be current, bone-fide, relevant and purposeful (i.e. not all encompassing).
- Client information can only be used for giving financial advice or purposes directly related to giving that financial advice (unless client has otherwise agreed). Again it is not clear what 'directly related means' under the Code nor how this sits with Privacy legislation.

We also note the proposal to delete information post engagement, unless there is a regulatory requirement to retain. However, some financial service contracts with customers last many years post-advice and it may be impractical and undesirable to sever advice from the customer record arbitrarily in those situations. (We also note the complexity of IT hardware and architecture often demands that, in addition or substitution to deletion, rendering information inoperable and secure is an alternative used to achieve the objective).

If the intention of the Code Committee was to signal an expectation from advisers and FAPs of sound data protection and governance in the interests of clients, and the fact non-compliance would amount to a breach of the Code etc, we believe this could be achieved by redrafting the standard and referencing it to the expectation of and compliance with the Privacy Act and related laws, without introducing further potentially conflicting requirements. (As noted if a specific detailed code was required we consider this ought to be picked up by the OPC and FMA jointly).

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Q13 Overall, do you agree or disagree with [standard 7] and proposed commentary? **Agree**

Q14 Please provide any comments on [standard 7] and the proposed commentary. **Respondent skipped this question**

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Q15 Overall, do you agree or disagree with [standard 8] and proposed commentary? **Agree**

Q16 Please provide any comments on [standard 8] and the proposed commentary. **Respondent skipped this question**

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Q17 Overall, do you agree or disagree with [standard 9] and proposed commentary? **Agree**

Q18 Please provide any comments on [standard 9] and the proposed commentary.

Agree, As the largest Health Insurer, Southern Cross Health Care Society has significant expertise in the market place and would be keen for it and the wider Health insurance industry to participate in the review of the Health Insurance stream.

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Q19 Overall, do you agree or disagree with [standard 10] and proposed commentary? **Agree**

Q20 Please provide any comments on [standard 10] and the proposed commentary. **Respondent skipped this question**

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Q21 Overall, do you agree or disagree with [standard 11] and proposed commentary? **Neither agree nor disagree**

Q22 Please provide any comments on [standard 11] and the proposed commentary. **Respondent skipped this question**

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Q23 Overall, do you agree or disagree with [standard 12] and proposed commentary? **Agree**

Q24 Please provide any comments on [standard 12] and the proposed commentary. **Respondent skipped this question**

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Q25 Is there anything missing from the draft Code? **Respondent skipped this question**

Q26 If you answered yes, what is missing? **Respondent skipped this question**

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Q27 Do you have any feedback on the examples, or suggestions on other examples that should be included in the draft Code?

It would be useful to have examples of how a FAP can engage an individual financial adviser.

Q28 Is there anything else you want to say?

Respondent skipped this question

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Q29 Name

Madeleine Bassett

Q30 Your role or professional title

Regulatory and Compliance Lead

Q31 Individual or organisational submission

This is a submission on behalf of an organisation (eg employer)

Q32 If you give financial advice...

I am not an AFA, RFA or QFE adviser

Q33 My organisation or I give the following types of advice...

Life and/or health insurance

Q34 Organisation Name

Southern Cross Medical Care Society Trading - FSP43787 Trading as Southern Cross Health Society

Q35 Type of organisation

Other (please specify):
A provider of Health Insurance

Q36 Size of organisation

Large firm (50+ staff)

Q37 If there are other things we should know about you or your business that would provide context to your answers, please provide details below.

Respondent skipped this question

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Q38 Please indicate whether your submission contains any information that is confidential or whether you do not wish your name or any other personal information to be included in a summary of submissions. **Respondent skipped this question**

Q39 Please provide your contact details (email and/or phone number) This is the only question that requires an answer. This information would not be released publicly. We may get in touch with you in order to help us understand particular points from your submission.

s 9(2)(a)
