

Information about us

<i>Share your details</i>	
i.	<p>Please provide your name and (if relevant) the organisation you represent</p> <p>Chris Aynsley – Aynsley and Associates Limited</p> <p>Kevin Smee – Solutions Financial Services Limited</p>
ii.	<p>Please provide your contact details</p> <p style="text-align: center;">S 9 (2) (a)</p>
iii.	<p>Please provide any other information about you or your organisation that will help us understand your perspective (e.g. the financial advice situations you have experience with)</p> <p>Both Kevin and Chris are RFA's and we both have over 30 years' experience each in the advice and placement of life and health insurance.</p>
iv.	<p>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. (See page 2 of this document)</p> <p><i>We are happy to share our submission with the public.</i></p>

Principles for drafting the Code

<i>Share your views</i>	
A. Product features and	<p>What comments do you have regarding the overarching theme of “good advice outcomes” and the underlying principles?</p> <p><i>We strongly endorse the principle of good advice outcomes. We particularly like the fact that a good advice outcome is defined as occurring at the time the client is given the advice.</i></p> <p>PRINCIPLES</p>

	<p>Our key concern here is around principle 2, we are fairly comfortable with the assertions of the other Principles.</p> <p>Principle 2</p> <p>The assumption that most retail clients have a basic knowledge is fundamentally flawed. Clients for example rarely understand the risks covered by life insurance products. Study after study by experts in risk shows that even highly educated professionals such as doctors make the most elementary errors when assessing risks. We can't even assume a knowledge of basic product features or benefits. For example, 90 percent of New Zealanders do not know ACC has a death by accident feature that pays out to children and spouses.</p>
<p>B.</p>	<p>Are there any further principles that should be included, or existing principles that should be removed?</p> <p>NOT for NOW, see answer to Q A.</p>

Ethical behaviour

Act with honesty, fairness and integrity

<i>Share your views</i>	
C.	<p>Do you agree with a requirement to act with honesty, fairness and integrity? If not, please set out your reasoning.</p> <p>Yes.</p>

Keep the commitments you make to your client

D.	<p>Should minimum standards for ethical behaviour for the provision of financial advice extend beyond strict legal obligations, to include meeting less formal understandings, impressions or expectations that do not necessarily amount to strictly legal obligations? If no, please give reasoning. If yes, please propose how a standard for such commitments might be framed.</p> <p>Yes – minimum standards for ethical behaviour should be moderated/delivered/audited by the dealer/aggregator groups and the product providers (insurers/banks/Leander’s) in the insurance/mortgage world.</p> <p>We do not have a knowledge of financial planning and investment to make an informed judgement.</p>
E.	<p>If there was a minimum standard requiring Financial Advice Providers – or Financial Advice Providers in some situations – to have their own code of ethics in addition to the Code, how would you frame the requirement for it to deal with keeping commitments?</p> <p>Having a code of conduct as well as a code of ethics creates confusion and debate. How about a single document based on principles (as distinct from rules) called the CODE OF ETHICAL PRINCIPLES?</p>

Manage and fully disclose conflicts of interest
ethics creates

code of

F.	<p>Should the Code include a minimum standard on conflicts of interest in addition to the legislation?</p> <p>Yes</p>
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Do no harm to the client or the profession

G.	<p>Do you agree that a person who gives financial advice must not do anything or make an omission that would or would be likely to bring the financial advice profession into disrepute? If not, please set out your reasoning.</p> <p>Yes</p>
H.	<p>Is an additional minimum standard on doing no harm to the client necessary? If so, what standard do you propose?</p> <p>We don't think so. The code should cover this.</p>

Keep your client's data confidential

I.	<p>In which situations, if any, should the retention, use or sharing of anonymised bulk customer data be subject to Code standards?</p> <p>To make a considered comment we need more information.</p>
J.	<p>Do you agree that the Code should cover the various aspects of maintaining client confidentiality discussed in this paper?</p> <p>Yes</p>
K.	<p>Are there other aspects of maintaining client confidentiality to consider?</p> <p>What "technical "standards or levels of protection do we need to adopt to protect against hacking and other risks.</p>

Ethical processes in Financial Advice Provider entities

L.	<p>Do you agree that the Code should require the Financial Advice Provider to document and maintain its "ethical processes"?</p> <p>Yes</p>
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M.	<p>Should the Financial Advice Provider be required to have a publicly available corporate code of ethics? Are there particular situations where a corporate code of ethics should be or should not be required?</p> <p>Yes – mandatory requirement, and annual refresh</p>
N.	<p>Should Financial Advice Providers also be subject to additional standards in respect of leadership and culture? If so, how should these be framed?</p> <p>No. These are too difficult to judge objectively let alone enforce.</p>
O.	<p>Do you propose other additional standards of ethical behaviour that should apply to Financial Advice Providers?</p> <p>We don't know what the future holds, so this should be part of a periodic review.</p>

Ethics training

P.	<p>Do you agree that Financial Advice Providers should be required to meet standards relating to ethics training? If not, please state your reasoning.</p> <p>Yes – Mandatory and annual CPD Credits etc.</p>
Q.	<p>Should ethics training requirements apply to all officers and employees of a Financial Advice Provider, as appropriate to their role and contribution to the process of financial advice provision? If not, please state your reasoning.</p> <p>Yes</p>
R.	<p>Should there be a requirement for ongoing refresher training on ethics?</p> <p>Yes</p>

Resolving ethical dilemmas

S.	<p>Do you agree that Financial Advice Providers should be required to have in place, and use, a framework for resolving ethical dilemmas that may arise in giving financial advice? If not, please set out your reasoning.</p> <p>Yes we strongly support this.</p>
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Compliance functions

T.	<p>Should there be a requirement for explicit sign-off on the soundness of financial advice provided directly by a Financial Advice Provider?</p> <p>Yes.</p>
U.	<p>Do you agree that Financial Advice Providers should be required to have in place a compliance function aimed at following up on concerns raised by employees and other stakeholders? If not, please set out your reasoning.</p> <p>Yes.</p>
V.	<p>Should this extend further into an internal audit obligation, having in place processes to systematically test for and detect violations of ethical behaviour?</p> <p>This depends on the size of the practice.</p>
W.	<p>Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?</p> <p>Yes</p>

Responsibility for the whole advice process

X.	<p>Do you agree that Financial Advice Providers should be required to be able to demonstrate that they meet the standards of ethical behaviour as if the Financial Advice Provider carried out the whole advice process directly itself? If not, please set out your reasoning.</p> <p>Yes. Each FA adviser should be held to the same standard.</p>
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Reinforcing good ethical behaviour

Y.	<p>What principle or mechanism do you propose the Code could include to reinforce good ethical behaviour on a day-to-day basis?</p> <p>Ongoing training and simulation of ethical challenges based on case studies.</p>
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Conduct and client care

Advice situations

<i>Share your views</i>	
Z.	Are there other delivery methods that should be considered when testing our thinking? <i>Not sure.</i>

Advice-giving standards

AA.	How do the current client care standards work in practice, especially in advice-giving situations not previously covered by the AFA Code? In answering this question, please ignore “scope of advice” (CS-8) and “suitability” (CS-9 and part of CS-10). <i>Current care standards work well.</i>
BB.	Could any aspect of the current client care standards be worded better? (For example, we are aware that the definition of “complaint” could be improved.) <i>Yes, but again this should be managed in an organic way as should other challenges arise such as when AI advice becomes more available.</i>
CC.	Are there any aspects of the current client care standards that could be expanded or clarified (for example, in light of the published findings of the Disciplinary Committee)? <i>See answer to BB</i>
DD.	Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered? <i>Yes</i>
EE.	Are there any additional matters that should be addressed in the advice-giving standards? Those listed above? Others? <i>We need to clarify the principles and practices governing the transfer of clients between advisers. The client’s interests should be placed first.</i>

Advice process

FF.	<p>Do you think there are any other components that should be included in the design considerations of an advice process?</p> <p>No</p>
GG.	<p>Should the Code include guidance material to help determine what needs to be considered when designing an advice process?</p> <p>Yes</p>
HH.	<p>Are there any other important aspects you think should be included in the advice process for all types of financial advice activities under the new regime?</p> <p>Very difficult to answer this question as there are two distinctly different types of advisers: product advisers and financial planners.</p>
II.	<p>Should any of the key aspects that we have listed above be removed? If so, why?</p> <p>Very difficult to answer this question as there are two distinctly different type of adviser: product advisers and financial planners.</p>
JJ.	<p>Are there any situations in which an advice process need not be followed?</p> <p>Very difficult to answer this question as there are two distinctly different types of advisers.</p>

Personalised suitability

KK.	<p>What comments do you have about a proposed minimum standard on personalised suitability analysis? What are your views on the example above?</p> <p>All professional advice to be relevant has to be personalised. The amount and nature of advice is dependent on the client expectations, budget and circumstances.</p>
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Organisational standards

LL.	<p>What are the practical advantages and disadvantages of including organisational standards as described? What explanatory material or examples could we provide in the Code that might help to make these standards easier to comply with in practice?</p> <p>WE agree there should be a minimum standard that requires the FAP to document how ensures its organisational arrangements support the delivery of good advice outcomes. The best way to ensure these standards are adopted is to provide detailed examples for A range of different sized and resourced practices.</p>
MM.	<p>Would implementing these organisational conduct and client care standards create a particular compliance burden for your firm? If yes, please explain why.</p> <p>The best firms have already adopted these organisational conduct and client care standards.</p>

General competence, knowledge and skills

<i>Share your views</i>	
<p>NN.</p>	<p>Do you agree with our interpretation of the meaning of “competence, knowledge, and skills”? If not, why not?</p> <p>Generally, yes, but we would like to take this opportunity, with respect to illustrate what we believe the core components of a robust/moderated ethically driven process, which will demonstrate good advice outcomes.</p>
<p>OO.</p>	<p>Are there other factors, which contribute to combined expertise, that we have not listed? We are particularly interested in factors that are relevant to financial advice that is given by a Financial Advice Provider directly, including by digital means.</p> <p>We need to have a trust- driven influencing process. This document does not address a significant issue. How do you make sure RFAs influence clients in a way that increases the odds they will deliver advice that is in their clients best interests and ensures they are able to make an informed decision</p>
<p>PP.</p>	<p>What do you think are the advantages of this approach to general competence, knowledge and skills?</p> <p>Generally sound, however there are different levels of competence, knowledge and skills required depending of the scope of the services being offered. This ranges from the very basic placement of a funeral policy to a complicated financial plan for a sophisticated investor/entity.</p>
<p>QQ.</p>	<p>What do you think are the disadvantages of this approach to general competence, knowledge and skills?</p> <p>See other comments. Here we provide an overview of how an ethical framework can operate.</p>
<p>RR.</p>	<p>In what ways do you think this proposed standard contributes to, or detracts from, the legislative purposes (for example ensuring the quality and availability of advice, avoiding unnecessary compliance costs, and promoting innovation and flexibility)?</p> <p>See other comments.</p>

SS.	<p>What factors should we consider in determining whether to make the proposed unit standard a renewing obligation?</p> <p>A unit standard is useful for establishing the core knowledge required to enter a profession. It is not useful for encouraging professional to go from novice to competent to expert.</p>
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Particular competence, knowledge and skills

<i>Share your views</i>	
TT.	<p>What are the advantages and disadvantages of our approach of identifying two types of financial advice? What impact would it have on the type of advice you give and on your compliance costs?</p> <p>There are significant advantages in identifying two types of financial adviser which have very different requirements.</p>
UU.	<p>How should RFA's experience be recognised?</p> <p>We don't support recognition of an RFA (Which Kevin Smee and Chris Aynsley are both) in grandfathering to the new competency level.</p> <p>We believe that we should have a base line qualification of assessed knowledge of the law, the code, and the strand for which we give advice in.</p> <p>There also needs to be product provider certification of competency to deliver product advice from each supplier that we are an agent for. If we hold an agency and are not certified by the supplier, we need to disclose this on our initial disclosure documentation.</p>
VV.	<p>What do you think are the advantages of this approach to particular competence, knowledge, and skill?</p> <p>The professionalism of RFA's will soar.</p>
WW.	<p>What do you think are the disadvantages of this approach to particular competence, knowledge, and skill?</p> <p>The advantages of increased professionalism outweigh the costs and time involved.</p>

XX.	<p>In what ways do you think this proposed standard contributes to, or detracts from, the legislative purposes (for example ensuring the quality and availability of advice, avoiding unnecessary compliance costs, and promoting innovation and flexibility)?</p> <p>The proposed standard supports the legislative process. The devil will be in the detail and whether we come up with a way of working that significantly increases the odds of a good advice outcome.</p>
YY.	<p>What alterations, if any, would you suggest to the baselines we have nominated: specialist strand for product capability, Level 5 for discipline capability, and relevant degree (or other degree plus Level 6) for planning capability?</p> <p>We have already covered this.</p> <p>We like the idea of specialists strands for product capability,</p> <p>Level 5 capability is a knowledge standard. It has little practical value as a discipline mechanism.</p>

Other comments

<i>Share your views</i>	
ZZ	<p>Are there any other comments you would like to make to assist us in developing the Code?</p> <p>See below</p>

We applaud the tone and thrust of the proposed Code of Professional Conduct. In particular, we like the acknowledgment that there are two different types of advice: product advice and financial planning with their own distinctive competences, knowledge base and skill sets.

We would like to propose how this might be executed for product advisers.

The Six Elements of Ethical Product Advice.

These six elements reinforce and interact with each other in a way that optimizes the chance that clients will consistently achieve good advice outcomes.

The six elements form a three-tier pyramid.

On tier one at the apex of the pyramid, sits *element one* the code of ethics or code of conduct.

On tier two sit the elements that underpin the code of ethics: *element two*, consumer law and *element three* product principles.

On tier three, at the base of the pyramid sit the three elements that feed into each other to deliver the good advice outcomes: *element four*, a client-driven discovery process, *element five* the client needs analysis which results in *element six* a personalised client verified outcome.

Tier One: Ethical Behaviour

Element One: Code of Ethics – honesty, fairness and integrity.

The code should be framed as a series of principles not rules and embedded by ongoing simulated cases studies built around ethical dilemmas. We propose annual licensing supported by an independent client complaints process. Product advisers should be forbidden to sell products which they are not trained in. (Product manufacturers should run this training.)

Tier Two: Knowledge and Competence

Element Two: Consumer Law and Legal Obligations

To act ethically with knowledge and competence product advisers need to prove that they have a working knowledge of the relevant consumer law and their legal obligations.

Element Three: Product Definitions, Principles and Claims Processes

All advisers need a basic understanding of how products are labelled, the principles that govern them and the adviser's role in the claims process.

Tier Three: Client- Driven Good Outcomes Influencing Process

Element Four: Transparent Client-Driven and Informed Decision-Making Process

Advisers need to demonstrate they have acted in the client's best interests and the client has been able to make an informed decision.

Few advisers are aware that there are just two ways you can influence a client to buy a financial product called direct and self-persuasion.

Direct persuasion Here the adviser uses their knowledge and evidence to convince a client to *buy*. The problem is clients so hate being told what to do they push back. Clients express their resistance as scepticism and mistrust. In the age of google where clients have access to unlimited information and choice mistrust has been amplified. Increased volumes of fake news and lies has accelerated this trend. As a result, advisers have found it harder to sell or meet targets. When this happens, there is an increase in unethical behaviour as advisers resort to mistruths, half-truths and exaggerations.

90 percent of financial advisors use direct persuasion when advising. Think of it is the default form of influence. When advice is fuelled by conflicted commissions direct persuasion can easily result in unethical behaviour.

Self-persuasion Here the adviser influences by helping their clients convince themselves with their own reasons. Psychologists tell us we are convinced by our own reasons rarely by others. Clients don't resist when an adviser uses self-persuasion. Why? Clients don't argue with their own reasons.

Scientists have been demonstrating the impact of self-persuasion for over 50 years. However, a tested and proven self-persuasion process tailored to the needs of financial advisers has only recently become available.

Self-persuasion works like oil in a car engine. It eliminates friction, scepticism and mistrust from a relationship. Think of it as **friction-free influencing**.

When financial advisers use self-persuasion they dramatically increase the number of questions they ask a client. The transparency of the decision-making process improves, which allows the client to make an informed decision. It also proves to the client the solution has been created with client's best interests in mind.

Decision aids and risk pictographs. Research from the medical profession shows you can increase the quality of patient decisions when you use decision aids and risk pictographs to simplify decision making. These tools can easily be incorporated into a product financial adviser's influencing process.

Element Five: Audited Needs Diagnosis

In medicine prescription before diagnosis is malpractice. After questioning and listening to a client, the advisor needs to demonstrate that they can prepare a comprehensive needs analysis which points the client towards a good product-framed outcome.

Element Six: Personalized Client Verified Outcome

In the last step of the influencing process, the adviser needs to recommend a tailored solution that enables the client to make an informed decision based on an outline of the principal benefits, risks and costs. This document needs to be signed off by the client as meeting their needs and expectations.

The Six Elements of Ethical Product Advice is based on a body of research and working with a number of recognised professions including accountants, lawyers, doctors and engineers. We would like to share our insights face to face so we can elaborate on how the six elements will lead to superior outcomes.