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**From:** Dannie. H **S 9 (2) (a)** >  
**Sent:** 30 April 2018 16:53  
**To:** code secretariat  
**Subject:** Code submission

# Code of Professional Conduct for Financial Advice Services

## Submission Template

*Submissions close Monday 30 April 2018*

Please send submissions to:

**[code.secretariat@mbie.govt.nz](mailto:code.secretariat@mbie.govt.nz)** *or*

Code Working Group

c/o Code Secretariat (Poppy Haynes and Max Lin)  
Ministry of Business, Innovation & Employment  
PO Box 1473

Wellington 6140  
New Zealand

## Submissions process

The Code Working Group (CWG) seeks written submissions on the issues raised in this document by **5pm on Monday 30 April 2018**

**We welcome submissions on any or all consultation questions. You are welcome to comment only on the issues most relevant to you.**

Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please direct any questions that you have in relation to the submissions process to [code.secretariat@mbie.govt.nz](mailto:code.secretariat@mbie.govt.nz).

## Use of information

The information provided in submissions will be used to inform the CWG's development of the draft Code. We may contact submitters directly if we require clarification of any matters in submissions.

## Release of information

The CWG intends to upload PDF copies of submissions received to MBIE's website at [www.mbie.govt.nz](http://www.mbie.govt.nz). The CWG will consider you to have consented to publication of your submission, unless you clearly specify otherwise in your submission.

If your submission contains any information that is confidential or you otherwise wish us not to publish, please:

- indicate this on the front of the submission, with any confidential information clearly marked within the text
- provide a separate version excluding the relevant information for publication on our website.

Submissions remain subject to request under the Official Information Act 1982. Please set out clearly in the cover letter or e-mail accompanying your submission if you have any objection to the release of any information in the submission, and in particular, which parts you consider should be withheld, together with the reasons for withholding the information. The CWG will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.

## Private information

The Privacy Act 1993 establishes certain principles with respect to the collection, use and disclosure of information about individuals. Any personal information you supply to the CWG in the course of making a submission will only be used for the purpose of assisting in the development of the draft code. Please clearly indicate in the cover letter or e-mail accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that the CWG may publish.

## Information about you

<i>Share your details</i>	
i.	Dannie Hawkins GPS Financial Services Ltd
ii.	272 Portobello Road RD2 Dunedin
iii.	AFA
iv.	I think that this requirement will limit honest feedback and will mean that many RFAs and AFAs will not submit at all. The submission form is overly complicated and seems to be designed to railroad people into particular responses. I allowed 4 hours to do this submission + attended the code meeting and have just scraped the surface.

## Principles for drafting the Code

<i>Share your views</i>	
A.	Not all that counts is measurable. Not all that is measurable counts. Would an informed reasonable person think that the client is better off having received the advice?
B.	First do no harm, does the client benefit from the advice.

## Ethical behaviour

Act with honesty, fairness and integrity

<i>Share your views</i>	
C.	There should be a level playing field. All benefits to the entity giving "advice" should be disclosed. Currently if a QFE adviser sells a QFE product they have different disclosure than an AFA recommending exactly the same product, yet the QFE is likely to have a greater financial incentive to sell it.

Keep the commitments you make to your client

D.	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.
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E.	I'm sure all of the institutions getting a grilling have big fat code of ethics books. You cannot legislate ethics. Forcing a 40 page ethics manual on every small adviser is a good way to help drive advisers out of business.
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Manage and fully disclose conflicts of interest

F.	Everybody has a conflict of interest. As far as reasonable they should be disclosed
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Do no harm to the client or the profession

G.	What is the role of the whistle blower? Is the Royal Commission in Australia bring the industry into disrepute? or is it the institutions that encouraged poor behaviour? (despite, no doubt, thousands of pages of paperwork and ethics manuals and documented advice processes and.....
H.	There needs to be a reasonably foreseeable clause. Almost everything can be improved with hindsight.

Keep your client's data confidential

I.	In which situations, if any, should the retention, use or sharing of anonymised bulk customer data be subject to Code standards?
J.	Do you agree that the Code should cover the various aspects of maintaining client confidentiality discussed in this paper?
K.	Are you going to insist all cloud services are NZ based? All cloud based services are subject to foreign laws.

Ethical processes in Financial Advice Provider entities

L.	No. A manual will not change anything
M.	No, ethics should be expected
N.	No
O.	Do you propose other additional standards of ethical behaviour that should apply to Financial Advice Providers?

Ethics training

P.	No
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Q.	No, the law already requires this
R.	No

#### Resolving ethical dilemmas

S.	No, there goes the small advisers where clients are a name not a number
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#### Compliance functions

T.	No
U.	No
V.	Definitely not.
W.	Compliance costs are already a burden for small Financial Advice Providers that. Adding yet another layer to all of the AML, FMA etc requirements is unnecessary.

#### Responsibility for the whole advice process

X.	No. You cannot demonstrate ethics.
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#### Reinforcing good ethical behaviour

Y.	Allow the disputes tribunals to do their work.
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#### Conduct and client care

##### Advice situations

<b><i>Share your views</i></b>	
Z.	Phone calls. Face to face conversation.

##### Advice-giving standards

AA.	The current requirements have already almost eliminated the economics of giving advice to smaller clients. The code complaint cost in terms of liability, time and money in servicing smaller clients means that the stick is far bigger than the carrot. Treating clients as adults and allowing them to decide whether they want 40 pages of paperwork etc would allow encourage much more advice.
BB.	There should be a tiered system.

CC.	The Disciplinary Committee and disputes tribunals have not been overrun by consumer complaints about advisers.
DD.	The compliance burden already disadvantages smaller potential clients.
EE.	Are there any additional matters that should be addressed in the advice-giving standards? Those listed above? Others?

#### Advice process

FF.	Do you think there are any other components that should be included in the design considerations of an advice process?
GG.	Should the Code include guidance material to help determine what needs to be considered when designing an advice process?
HH.	Are more people able to access financial advice as a result?
II.	Should any of the key aspects that we have listed above be removed? If so, why?
JJ.	Are there any situations in which an advice process need not be followed? There are many situations where a simple yes no answer will help people. Should I pay off my credit card with this term deposit? Should I mortgage my house to buy bitcoin? I have no dependants and am debt free, do I need the 500,000 of life insurance the bank sold me?

#### Personalised suitability

KK.	Why not a 10 level tiered approach where the client and adviser can agree on how much detail to go into. After all they know far more about the clients personal situation than the code can anticipate.
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#### Organisational standards

LL.	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?
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MM. The devil is in the detail. Who decides if the client has enough information? When is decided? There is a truckload of information in a PDS for example, if you are recommending 25 funds, with a PDS for each one the client already has 1000 pages of information to “understand”

## General competence, knowledge and skills

<i>Share your views</i>	
NN.	Do you agree with our interpretation of the meaning of “competence, knowledge, and skills”? If not, why not?
OO.	Are there other factors, which contribute to <b>combined expertise</b> , 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.
PP.	What do you think are the advantages of this approach to general competence, knowledge and skills?
QQ.	CPD should be counted towards qualifications. What do you think are the disadvantages of this approach to general competence, knowledge and skills?
RR.	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)?
SS.	What factors should we consider in determining whether to make the proposed unit standard a renewing obligation?

## Particular competence, knowledge and skills

<i>Share your views</i>	
TT.	Financial advice is a spectrum, it is not binary. A recommendation for a provider for a mortgage is not a financial plan.
UU.	Recognition of prior learning is done at any good polytech. If you are going to be prescriptive about qualifications listen to feedback about the providers from the industry. Driving 4000 good advisers out of the industry is not a good outcome. Retrospectively deciding that a Waikato Diploma in Financial Planning is not adequate is not a good outcome.
VV.	What do you think are the advantages of this approach to particular competence, knowledge, and skill?
WW.	What do you think are the disadvantages of this approach to particular competence, knowledge, and skill?



XX.	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)?
YY.	Often the most important aspect is can the client relate to the adviser and VsVs. 50% of people are below average. How will insisting that the adviser have a degree help the client?

Other comments

<i>Share your views</i>	
ZZ.	Keep it simple. Allow clients and advisers to have an adult consensual relationship. Do not force clients to accept something they do not want because the adviser has to “comply with the code”

Sent from [Mail](#) for Windows 10