



Professional IQ College
Submission on Code Working Group (CWG)

Code of Professional Conduct for
Financial Advice Services

Information about you

<i>Share your details</i>	
i.	Sylvia Heywood on behalf Professional IQ College Limited
ii.	S 9 (2) (a)
iii.	<p>Professional IQ College provides education and training for those working in the insurance and financial services industries.</p> <p>Originally established in 2011 as IBANZ College Ltd, we deliver NZQA accredited programmes leading to qualifications in financial services as well as industry certificates and learning to promote competency and professionalism throughout the financial services sector.</p> <p>Professional IQ College is a Private Training Establishment (PTE) registered with NZQA and accredited by The Skills Organisation to deliver training and assessment for insurance and financial services qualifications within New Zealand.</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>Information contained is not confidential</p>

Principles for drafting the Code

<i>Share your views</i>	
A.	<p>What comments do you have regarding the overarching theme of “good advice outcomes” and the underlying principles?</p> <p>As a consumer and educationalist any product worth its value goes through a number of quality processes before it reaches its market. Therefore one would expect that the underlying principles and the Code would include the competency of those involved in its production and or delivery.</p>
B.	<p>Are there any further principles that should be included, or existing principles that should be removed?</p>

Ethical behaviour

Act with honesty, fairness and integrity

Share your views

C. **Do you agree with a requirement to act with honesty, fairness and integrity? If not, please set out your reasoning.**

Yes

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.

The importance of ethical behaviour extends law enforcement. Implementation of law often occurs as a result of unethical behaviour after the event. For example, the Black Tuesday share-market crash October 1987 followed government fiscal deregulation and a boom period where many investors over-extended themselves in terms of size and risk resulting in 'Mum and Dad' investor losses and the government bailing out finance companies, which led to the regulation changes we have today.

Also, the 2008 global financial crisis raised concerns about previously established ideas, theories and policy settings. <http://ips.ac.nz/publications/files/b0a93edb735.pdf>

Minimum standards for ethical behaviour go beyond strict legal obligations, are relevant and should be about understanding the client concept, improving adviser skill, knowledge and competence through practise. By forming an understanding of minimum standards for ethical behaviour there will be champions who are motivated to display such behaviour in the sector.

In the report 'A Question of Ethics – Navigating Ethical Failure in the Banking and Financial Services Industry' by the Chartered Accountants ANZ, 2016 is information about the Centre for Ethical Leadership which was established in 2010. It sets out three target levels: individual; organisation; and industry leaders and cross-sectoral. Proposing a range of culture shaping interventions that are designed to improve ethical behaviour in the banking and financial services sector which includes data analytics through ethical key performance indicators (EKPI's).

The report also explains how ethical behaviour is not just the ownership of the individual but also at the organisation level (Page 19) 'A person who believes that a practice is necessary for them and their organisation to succeed has a vested interest in framing that practice as ethical'.

https://www.interest.co.nz/sites/default/files/embedded_images/CA%20ANZ%20Embargoed%20Future%20Inc%20A%20Question%20of%20Ethics.pdf

Organisational ethical culture needs to be part of any minimum standards. Research on ethical decision-making argues that ethical/unethical behaviour is actually an interaction of the person and the situation (Treviño, 1986), since ethical decision-making is influenced by both the individual and their environment.

Treviño, L. K. (1986). Ethical decision making in organizations: A person–situation interactionist model. *Academy of Management Review*, 11, 601-617.

E. 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?

See answer above.

Manage and fully disclose conflicts of interest

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

G.	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. Yes
H.	Is an additional minimum standard on doing no harm to the client necessary? If so, what standard do you propose?

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 there other aspects of maintaining client confidentiality to consider?

Ethical processes in Financial Advice Provider entities

L.	Do you agree that the Code should require the Financial Advice Provider to document and maintain its "ethical processes"? See answer to D above
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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, a corporate code of ethics should be publicly available. This would give clients confidence that our major FAPs are giving quality advice that is free from organisational manipulation and mis-sale.</p> <p>Only last week did we hear that the Australian Royal Commission is investigating poor behaviour by financial institutions and banks. Our largest banks are Australian owned. Whilst their culture and business practices may not be the same they are nonetheless very similar.</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>Laws and regulations obviously influence ethical behaviour. According to 'A Question of Ethics' report some structural factors encourage unethical behaviour (Page 16).</p> <p>https://www.interest.co.nz/sites/default/files/embedded_images/CA%20ANZ%20Embargoed%20Future%20Inc%20A%20Question%20of%20Ethics.pdf</p> <p>Therefore leadership and culture has a place in terms of standards so that potentially ambiguous company policies and reward schemes do not unconsciously contribute to unethical behaviour.</p>
O.	<p>Do you propose other additional standards of ethical behaviour that should apply to Financial Advice Providers?</p> <p>Yes, social factors such as cultural dynamics can also have an unconscious bias on ethical behaviour. In 'A Question of Ethics' report the lack of diversity and competitiveness in the financial services and banking industry affects ethical behaviour and decision making (Page 18). The report goes on to explain how the lack of diversity, especially at senior management level affects the culture of the organisation which has in the past contributed to scandals (Page 19).</p> <p>https://www.interest.co.nz/sites/default/files/embedded_images/CA%20ANZ%20Embargoed%20Future%20Inc%20A%20Question%20of%20Ethics.pdf</p> <p>What gets measured gets done - the introduction of the New Zealand Stock Exchange's (NZX) new corporate governance code includes diversity reporting guidelines to bring them in line with overseas models to realise the social and economic gains of a more diverse workforce.</p> <p>https://www.globalwomen.org.nz/news-and-events/2017/nzx-releases-new-diversity-reporting-guidelines/</p> <p>The CWG should at least consider how diversity and competitiveness within an organisation effects ethical behaviour .</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</p>
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Q.	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. Yes
R.	Should there be a requirement for ongoing refresher training on ethics? Yes

Resolving ethical dilemmas

S.	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. Yes, especially in large FAPs
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Compliance functions

T.	Should there be a requirement for explicit sign-off on the soundness of financial advice provided directly by a Financial Advice Provider?
U.	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. Yes
V.	Should this extend further into an internal audit obligation, having in place processes to systematically test for and detect violations of ethical behaviour? Yes, but would need to be manageable for small FAPs.
W.	Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered? Yes, small FAPs may struggle to meet any additional compliance costs.

Responsibility for the whole advice process

X.	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. Yes, self-assessment by the FAP should be carried out and published.
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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>On a daily basis we make some decisions quickly and easily and rely on our unconscious knowledge and our environment. Social factors can affect ethical behaviour and decision-making which has been discussed above.</p> <p>This is a challenge for the CWG as ultimately it is part of ethical behaviour.</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?

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).
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.)
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)?
DD.	Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?
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 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?
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?

Personalised suitability

KK.	What comments do you have about a proposed minimum standard on personalised suitability analysis? What are your views on the example above?
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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>The practical advantages of including organisational standards with Key Conduct Indicators (KCI's) will ensure that organisations are self-reviewing its organisational culture on top of its profit and loss. That they will have the ability to measure organisational ethical behaviour and in doing so will provide an element of trust in one's own organisation.</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>It would add a compliance cost to small firms.</p>

General competence, knowledge and skills

<i>Share your views</i>	
NN.	<p>Do you agree with our interpretation of the meaning of “competence, knowledge, and skills”? If not, why not?</p> <p>No, your interpretation of “competence” refers to the ability to do something to an acceptable standard.</p> <p>Competence means the ability to do something successfully or efficiently and as such competence is synonyms with capability, ability, capacity, proficiency and accomplishment.</p> <p>The measurement of skill and knowledge determines the competency level. For example, in unit 26360 is set at level 5 on the NQF the overall competency is “Demonstrate understanding of the legislative framework for financial advisers” if this competency is not demonstrated then the unit is not met.</p> <p>If you are going to say “to an acceptable standard” then you need to determine what that is!</p> <p>Your interpretation of “competence, knowledge, and skill’ refers to the composite of those abilities as demonstrated by the combined expertise of the Financial Advice provider, and any Financial Adviser or Nominated Representative to give regulated financial advice. This seems flawed and open to abuse.</p> <p>There would need to be strict policy and procedures in place in FAPs where competency, knowledge and skill is held by the organisation rather than the individual. The FAPs HR team will be very busy keeping up-to-date with staff competencies especially where there is high staff turnover.</p>
OO.	<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>
PP.	<p>What do you think are the advantages of this approach to general competence, knowledge and skills?</p> <p>See my response in NN above</p>
QQ.	<p>What do you think are the disadvantages of this approach to general competence, knowledge and skills?</p> <p>See my response in NN above</p>
RR.	<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>

SS.	<p>What factors should we consider in determining whether to make the proposed unit standard a renewing obligation?</p> <p>The CWG statements on page 45 state that “Completing the qualification with the core content and a single strand would amount to 60-75 credits. This may take approximately one semester of full-time study or an equivalent amount of part –time study, as a typical full time learner can usually complete 120 credits of learning in a year.”</p> <p>NZQA defines that 1 credit is equivalent to 10 notional learning hours. Therefore 70 credits would take 700 hours to complete. 700 hours spread over 48 weeks equals approximately 15 hours a week. 48 weeks is considered to be a typical academic year taking into account annual holidays.</p> <p>The Tertiary Education Commission (TEC) caps the amount of funding it allocates to Industry Training Organisations based on 70 credits a year. This is because TEC believe that people in full time employment do not have the time to complete more than 70 credits annually.</p> <p>The College has based its durations on NZQA and TEC guidelines to enable learners to complete 70 credits annually. Costs of Core is \$1,035 and financial advice \$1,590 considerably lower than that quoted in the consultation paper.</p> <p>New Zealand Certificate in Financial Services (Level 5) has eight strands. To gain the certificate the candidate completes the Core Knowledge (4 units) and one of the strands (3-5 units depending on the strand).</p> <p>The unit standard 23630 is the only unit administered by examination which makes up part of the component for the financial advice strand.</p> <p>The certificate was developed with industry consultation and contains graduate outcomes for each strand which provides the financial services industry with individuals who have specialist operational and theoretical knowledge and skills in financial services.</p> <p>Maintaining the current level of professional development through self-examination as one would do in a Professional Development Plan as currently the requirement of the Code.</p>
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Particular competence, knowledge and skills

Share your views

<p>TT.</p>	<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>In terms of the client experience how would the client know the difference between product advice and financial planning?</p> <p>Contradictory to say that the minimum standard is L5 but then can give advice if skill, knowledge & competency is equivalent to the L5?</p> <p>For financial planning it is suggested a level 6 certificate. There is already a New Zealand Diploma in Financial Services which was approved in June 2015 but as of today's date no educational organisation offers this qualification. It would be wise to check why there has been no uptake of the existing qualification.</p>
<p>UU.</p>	<p>How should RFA's experience be recognised?</p> <p>I recall that the old National Certificate in Financial Services level 5 required 50-55 credits be achieved depending on the strand. For those giving insurance advice and residential property lending advice they were expected to complete unit 26360 which many of them found difficult to attain. If unit 26360 was to be introduced again for RFA's I'm sure that there would be many that would exit the sector.</p> <p>The current New Zealand Certificate in Financial Advice level 5 works well for the industry now it is more flexible and suitable for RFA's. This is especially relevant for new people coming into the sector.</p> <p>Recognition of Prior Learning (RPL) is a system by which candidates can have their knowledge and/or skills, assessed to establish their current level of competency against the outcomes of particular unit standards.</p> <p>Recognition of Current Competency (RCC) enables people to gain formal qualifications for the skills and knowledge they already have.</p> <p>In both RPL and RCC the candidate must prove to an assessor that they already have the skills and knowledge needed to meet the requirements of a particular qualification.</p> <p>Based on the RPL and RCC system it is possible to recognise current skill and knowledge. However, this process can be costly as it requires the services of an assessor for at least 6 hours of assessment time.</p> <p>The College has already designed a bridging programme which is essentially RPL'ing graduates from the old National Certificate to the New Zealand Certificate through direct links between the old and the new unit standards to establish the gap between the standards and the new certificate. Candidates complete an online multichoice quiz which is basically a competency quiz after taking this quiz candidates know if there are any gaps in their knowledge based on the score they receive. They then have the opportunity to update their knowledge by completing the bridging programme. This is very cost effective ranging from \$200-\$300 per programme.</p>

VV.	<p>What do you think are the advantages of this approach to particular competence, knowledge, and skill?</p> <p>Agree would be difficult to justify one rule for life insurance and not for general insurance!</p>
WW.	<p>What do you think are the disadvantages of this approach to particular competence, knowledge, and skill?</p> <p>See comments above</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>See comments above</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>See comments in UU above</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>Concern that much of the focus is on processes and not on setting the standard. This will make it confusing for the industry and the client experience.</p> <p>Large and small firms will need to meet the costs of any self-regulation and obviously any extra costs will be passed on to the client.</p> <p>Having a framework for ethical behaviour sounds good in practice but if the CWG is serious about this then further work is required to set key ethical indicators for measuring criteria.</p>