

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 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.

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. 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.	Please provide your name and (if relevant) the organisation you represent Tony Gribble
ii.	Please provide your contact details S 9 (2) (a)
iii.	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) I have been an adviser for 12 years and I am not aligned to any insurance company or bank
iv.	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) Nothing confidential

Principles for drafting the Code

<i>Share your views</i>	
A.	What comments do you have regarding the overarching theme of “good advice outcomes” and the underlying principles? No comment
B.	Are there any further principles that should be included, or existing principles that should be removed? No comment

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>Fair</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>No comment</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>No comment</p>

Manage and fully disclose conflicts of interest

F.	<p>Should the Code include a minimum standard on conflicts of interest in addition to the legislation?</p> <p>If the client will be compromised otherwise the only relevant advice is what is important to the clients and matching it to the outcomes they want if certain events affect them. That is all they care about and I have not seen anything in writing that says client want to know what everyone gets paid or how they are remunerated. I think there is a lot of rumours and innuendo from persons other than clients and no one has provided evidence saying clients have been ill affected</p>
----	--

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>Obviously</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>No minimum standard – just common sense</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>All situations as per the privacy act –the client needs to agree to the sharing of this data, especially clients of banks who need to understand who is accessing their financial information for uses other than what was originally intended for.</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>No comment – common sense should be used</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>It should set out what is common sense and what is require so it is transparent for clients and advisers including those working in banks</p>
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>At what cost and have consumers demanded they see it or is this another cost and burden being dumped on the majority of small business operators unnecessarily?</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>Additional to what – please explain your thoughts and reason for this question as I don't see its relevance. Consumers deal with either banks or individual advisers in person – so what is the relevance of this?</p>
O.	<p>Do you propose other additional standards of ethical behaviour that should apply to Financial Advice Providers?</p> <p>Other than what?</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>No – this is currently covered by inference when you join most industry bodies – why add another bureaucratic layer in an industry already under strain to serve the public who are well underinsured</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>No –not necessary</p>
R.	<p>Should there be a requirement for ongoing refresher training on ethics?</p> <p>No – see above</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>What ethical dilemmas are happening currently that are not being resolved through arbitration or similar communications? Another layer of unnecessary cost and bureaucracy?</p>
----	---

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>It depends on whether this will be standard across all banks and individual advisers and who is going to police it and at what cost. Is there a problem currently or are we as an industry making it up to suit an agenda? Haven't seen any evidence of a widespread problem yet through all this review process – please provide evidence to the market place if there are issues otherwise don't fix what isn't broken</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>Wouldn't this be covered under normal and current employment legislation in the work place?</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 is already an obligation under current legislation why double up on this ?</p>

W.	<p>Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?</p> <p>Always and what is the benefit to the consumer and are we making issues that aren't seen as issues by the public we serve? That is the impression I get from educated clients</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>NO – as it currently stands who is going to get across the advice process of thousands of advisers whether they be a bank or a small business? If there is a problem then there is sufficient obligations and consequences already available to deal with it and for the last few years how many issues have there been please?</p>
----	--

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>No comment – see above</p>
----	---

Conduct and client care

Advice situations

<i>Share your views</i>	
Z.	<p>Are there other delivery methods that should be considered when testing our thinking?</p> <p>No comment sorry</p>

Advice-giving standards

AA.	<p>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).</p> <p>No comment – internally we have a sound and currently compliant practice so can't comment on others as I don't know what they are</p>
-----	--

BB.	<p>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.)</p> <p>I imagine you would ask the affected public (so those who currently have insurance, not those that don’t) as this is for them isn’t it?</p>
CC.	<p>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)?</p> <p>No comment</p>
DD.	<p>Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?</p> <p>Always – you don’t want to drive good advisers out of business as there will be even less insurance provided if you do this</p>
EE.	<p>Are there any additional matters that should be addressed in the advice-giving standards? Those listed above? Others?</p> <p>No comment</p>

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 comment</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>No comment</p>
II.	<p>Should any of the key aspects that we have listed above be removed? If so, why?</p> <p>No comment</p>
JJ.	<p>Are there any situations in which an advice process need not be followed?</p> <p>Only if the client agrees to limited specific advice and this signed off on</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>
-----	--

	I think you need to understand there is a difference between financial planning and giving risk advice – they are not the same and the levels of qualification should reflect this. You shouldn't need a level 7 standard to give advice on life insurance. Over the top in my opinion
--	--

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>No comment</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>Yes it would and the expertise required may not be adding any value to the advice being given, just adding cost?</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>Yes</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> <p>Years of experience and references from the insurers possibly?</p>
PP.	<p>What do you think are the advantages of this approach to general competence, knowledge and skills?</p> <p>The perception of our industry, if promoted and marketed, may improve in the public's eyes.</p>
QQ.	<p>What do you think are the disadvantages of this approach to general competence, knowledge and skills?</p> <p>No comment</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> <p>No comment</p>
SS.	<p>What factors should we consider in determining whether to make the proposed unit standard a renewing obligation?</p> <p>Relevance across the range of advisers and relevance to the end consumer as well as the on going cost if not relevant</p>

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>Are you confusing the audience – the public. They are currently in my opinion if you ask them as it has never been marketed to them. So if we are making it relevant to the audience and they tell us there is a need – not our industry bodies making up an issue</p>

UU.	<p>How should RFA's experience be recognised?</p> <p>What do the public think – after all it is basic risk insurance advice or are we looking at fire and general and mortgage brokers as well as bank tellers – it is a wide audience being covered. Depends on what segment they are advising in – is it just mum and dads or simple business owners as well – by that I mean sole traders.</p>
VV.	<p>What do you think are the advantages of this approach to particular competence, knowledge, and skill?</p> <p>Setting a standard possibly is an advantage</p>
WW.	<p>What do you think are the disadvantages of this approach to particular competence, knowledge, and skill?</p> <p>No comment</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>No comment</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>What is the objective of this review form the publics perspective rather than MBIE/CWG etc – so what really are the issues rather than perceived or made up issues which is what I am seeing a lot of.</p> <p>There are a lot of egos and a lot of people making decisions that have never been in front of a client so I find it hard to understand how the decision makers are not listening to experienced advisers for one, and 2 why is there not a couple of senior advisers on these panels giving their real life experience to this review –seems a waste of skills not considering thee people.</p> <p>I don't see the relevance of a degree in giving mortgage advice, fire and general advice or risk advice, Possibly a specific strand for investment planning advice but not a degree – we want to encourage people to our industry not turn them off</p>

Other comments

Share your views	
ZZ.	<p>Are there any other comments you would like to make to assist us in developing the Code?</p> <p>No comment</p>