

Code of Professional Conduct for Financial Advice Services

CODE WORKING GROUP – CONSULTATION – MARCH 2018

Minister

**Consumers &
financial advice
industry**

Appoint

Consult

CWG

Key concepts
High level approach
Assumptions

FSLAB modifies FMCA
and repeals FAA

Parliamentary
Select Committee

Disclosure obligations

FMA licensing

Code

regulated financial advice
given to retail clients



Legislative duties include among others:

the **care, diligence, and skill** that a prudent person would exercise

if there is a conflict give **priority to client's interests**

reasonable steps to ensure client **understands nature and scope** of advice, including any **limitations**

comply with code standards of **ethical behaviour, conduct & client care** and don't give advice unless you meet code standards of **competence, knowledge, and skill** (including CPT requirements)

Principles

taking into account Oct/Nov 2017 focus group feedback

QUALITY OF ADVICE

2. Client has basic knowledge, not expert understanding

3. Clear, concise, effective and principles-based



AVAILABILITY OF ADVICE

5. Ethics consistent for all situations and relevant to business, officers, advisers

4. Delivery agnostic

1.
Good
advice
outcome

Good advice outcome

the client is given advice

that meets a reasonable client's needs

in the particular client's circumstances

having regard to the nature and scope



Compliance: clarity and costs

reduce processes?



business size
(identical advice)

nature and
scope of advice



greater reliance on adviser
competence, knowledge, and skills
(and their hands-on involvement)

fewer variables assimilated to
achieve good advice outcome



act with

honesty, fairness and integrity

Advice-giving and ongoing organisational

IOSCO framework

- Conflicts management
- Harm
- Confidentiality (inc bulk data)

Routines to reinforce good behaviour on a day-by-day basis?

Own code of ethics for each business?
(eg non legally-binding promises made on its behalf)

Ethical arrangements in place

- Ethics training
- Resolving ethical dilemmas
- Compliance functions
- Whole advice process responsibility

Ethical behaviour

seeking views not definitive proposals

Conduct and client care

AFA Code (is it working ok?)

D. MINIMUM STANDARDS OF CLIENT CARE

- Standard 6 Behaving professionally
- Standard 7 Ensuring retail clients can make informed decisions about using an AFA
- Standard 8 Agreeing the nature and scope of service
- Standard 9 Suitability of personalised services for retail clients
- Standard 10 Ensuring retail clients can make informed decisions about personalised services
- Standard 11 Complaints processes
- Standard 12 Keeping information about personalised services for retail clients
- Standard 13 Record retention



Suitability
not needed when
achieve good advice
outcome without it



Organisational standard
how support delivery of
good advice outcomes

General

competence, knowledge, and skill

Combined expertise

1st minimum standard:

Have expertise necessary to deliver good advice outcome.

Have processes, controls, and limitations to ensure combined expertise will deliver good advice outcome. Document them and review for effectiveness.

2nd minimum standard:

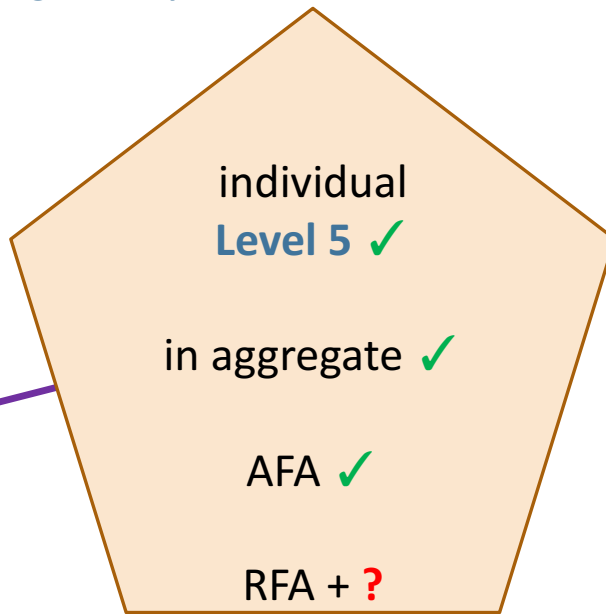
Have up-to-date and clear understanding of the general legal, Code and consumer protection obligations.

- Level 5 Unit Standards 26360 (or equivalent) in last 3 years, or
- Have processes, controls, and limitations to ensure that the financial advice complies with those obligations.

Particular competence, knowledge, and skill

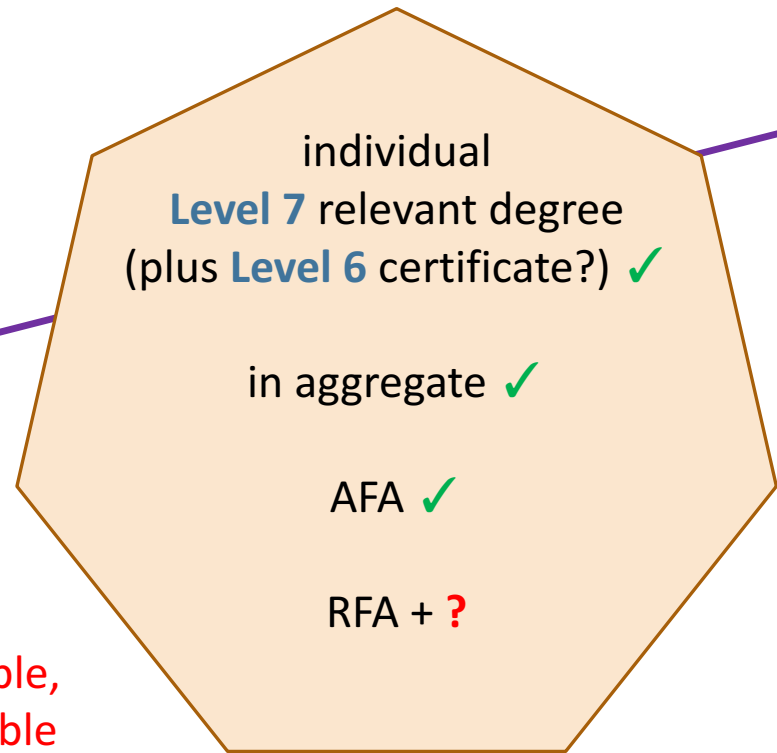
Reference point levels.

*Focus on output not input:
client experience equivalent to that
given by an individual with that level.*



product advice

measurable,
quantifiable



financial planning

Timeline

provisional and subject to
Parliamentary Select
Committee timing

Date	Activity
Now	Consultation on key-concepts and high-level approach
Mid-2018	Consultation on wording of the draft Code
Mid to late 2018	Rework the draft Code based on feedback (more consultation?)
Late 2018	Submit the draft Code for Ministerial approval
Late 2018	Code of Professional Conduct approved and published
Approx 3 months after Code approved and published	FMA commences transitional licensing of FAPs
Approx 9 months after Code approved and published	New regime takes effect

How to be involved

Submissions by Monday 30 April 2018 at 5pm to
code.secretariat@mbie.govt.nz

You are welcome to comment only on those questions or sections that
are of interest to you

mbie.govt.nz/cwg