

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.	Paul Noble – Advisor and Director of Elbon Financial Services Limited based in Tauranga.
ii.	S 9 (2) (a)
iii.	I am a sole Practioner business providing advice to personal clients on risk insurance products (life, income, disability, health etc) and KiwiSaver. I am an AFA and a member of Financial Advice NZ. My submission is limited to Financial Advice given on these products alone.
iv.	No.

Principles for drafting the Code

<i>Share your views</i>	
A.	I think the definitions you have used are open to interpretation. I think anyone can “reasonably” justify anything if they want to. Good advice also means comparing what’s available in the market place and comparing definitions of policies in plain language for clients to understand what constitutes a claim under a policy. Advisors should meet a client’s expectations not just “reasonable” expectations.
B.	Get rid of the term generic – this applies to class type advice such as a product description only e.g. KiwiSaver – how it works! If a product is to fit a personal need it need to be demonstrated how it fits in terms of what the client can do with it.

Ethical behaviour

Act with honesty, fairness and integrity

<i>Share your views</i>	
C.	Of Course. However, I have seen many examples over the past two years of churning product to another company that provides high initial commission and incentives. Basically, Insurance Companies are sluts for business and don't question where business comes from but rather puts Advisors on a pedestal based on performance regardless of ethical behaviour and concern for the client.

Keep the commitments you make to your client

D.	Yes, there should be minimum standards. In life insurance its an easy process although not often followed by most Practioners. Quantifying needs and setting a plan round those needs also requires a regular review to ensure that in the event of a claim there are no surprises for the client. This is an obligation. For example – I have been asked to review an existing client from another Advisor who has not seen his/her client since putting the business in place 8 years ago. The annual renewal commission on this policy is 144% of the cpi increases and .174% of the existing premium – so approximately \$2,000 per annum. Not bad for doing nothing for the client.
E.	I assume a model already exists with the Law Society and other professional organisations – maybe look at this in the first instance and see how that would fit in this industry. I do think you need two types – one for investment advice and one for insurance advice!

Manage and fully disclose conflicts of interest

F.	YES! – but this must also include the major conflict of only representing one company's product. This is a definite conflict of interest. As an example – my wife was recently told by a clerk in our bank that we should switch our KiwiSavers to them because their product was better. They had no knowledge of what KiwiSaver product we had!
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Do no harm to the client or the profession

G.	Yes!
H.	Yes! – replacement business rules should be stricter. Before replacement business can be put in place an Insurance Company must be satisfied that the reasons for replacement are genuine. The current industry form used is very short on detail.

Keep your client's data confidential

I.	Not sure what this means
J.	Client information is confidential and should remain so. I don't regard the quantitative reasons for electing levels of sums assured to be confidential though.
K.	None that I can think of

Ethical processes in Financial Advice Provider entities

L.	Yes – this is part of the standard Advisor Business statement. All categories of Advisor should have a plain English version of this.
M.	Yes – they need a code of ethics around how they prospect for business and reward Advisors/staff for business.
N.	Yes – they should take a lead in ethics around servicing of clients and the provision of paying renewal commission without a servicing component. Otherwise the client is trapped into a contract with an Advisor that they do not want to continue with. This has led to churning to gain access to renewal commission without having to traditionally buy such products from another Advisor.
O.	Yes – they should do what the Client wants in terms of appointment of a servicing Advisor to existing business.

Ethics training

P.	No – they are not showing any ethics around the replacement business problem other than to wring their hands publicly and say it's a problem.
Q.	Yes – most definitely
R.	Yes – most definitely

Resolving ethical dilemmas

S.	Yes - this might make them responsible for how they accept new business.
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Compliance functions

T.	This could be costly – I have three files reviewed every year by an independent organisation with comments on best practice and any improvements I could make. I find this quite useful and adds value to my business.
U.	Yes.
V.	Yes
W.	Yes – for a sole operator compliance costs need to be affordable. Also there needs to be simpler compliance structures for Practitioners not providing investment advice (KiwiSaver not included).

Responsibility for the whole advice process

X.	Yes.
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Reinforcing good ethical behaviour

Y.	You must quantify a client's needs before recommending insurance levels. You must match products in terms of price, benefits and policy wording.
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Conduct and client care

Advice situations

<i>Share your views</i>	
Z.	Yes – consider the appropriateness of over the counter advice verses personalised advice. Any personal contact with a client should not be seen as placement only – its too easy to get a client to agree to this and therefore absolve the Advisor of any responsibility.

Advice-giving standards

AA.	In my view there is a very poor standard of care around client needs in placing insurance products.
BB.	Tighten up the process for providing product. Advisors don't have to justify specifically why they are giving the advice on a product.
CC.	Come down hard on those that churn
DD.	No – it's a process thing that makes an audit that much easier. Possibly a longer more detailed replacement business form to complete and have signed off by the client.
EE.	Get rid of company incentives.

Advice process

FF.	no
GG.	No – the process should be simple and clear, so all can understand it. If you can't understand the process you can't sell/place product.
HH.	Not really

II.	No
JJ.	No

Personalised suitability

KK.	Section 141 is completely wrong and open to abuse in my view.
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Organisational standards

LL.	Each provider needs to have a process that it wants Advisors/staff to go through in order to allow them to place business. They should also have the power to call on copies of the Advisor's process for any individual piece of business that that Advisor submits from time to time.
MM.	No – its part of our standard practice to document all sales and reviews where any changes are made.

General competence, knowledge and skills

<i>Share your views</i>	
NN.	Yes
OO.	No
PP.	Better outcomes for clients
QQ.	Applied piece meal by Providers
RR.	I think the rules for a Financial Advice Provider should be the same as for an individual. Anyone giving advice of managing an internal advice/sales process should hold Level 5 qualifications and so should their staff.
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.	The only way to split it is based around Insurance Advice (including KiwiSaver) or Investment Advice.
UU.	They should not be recognised. They should be made to attain Level 5 standard.
VV.	RFA's are responsible for the majority of churn in the life insurance industry and this review must address this.
WW.	Everyone would have to attain the same level of commitment to the industry and therefore it becomes a career not a quick fix to earn big dollars.
XX.	Not sure

YY.	Not sure
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Other comments

<i>Share your views</i>	
ZZ.	We need a greater level of professionalism in the “Insurance” industry and making all Advisors attain Level 5 would be a good start in this. We also need to ensure that there is ample opportunity to obtain continuing education credits for Advisors. Providers should be able to supply a minimum of refresher courses that would assist in such things as product knowledge and skills for dealing with clients. More on-line training would suit today’s busy times with a central register for submitting compliance and skills training.