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31 August 2018

Dr Mark Brimble  
Acting Managing Director  
Financial Adviser Standards and Ethics Authority

Email: [consultation@fasea.gov.au](mailto:consultation@fasea.gov.au)

**Re. Consultation Paper 6: Continuing Professional Development (CPD)**

Dear Mr Brimble,

We thank you for the opportunity to comment on *Consultation Paper 6: Continuing Professional Development (CPD)*. We have outlined our concerns and suggestions below for your consideration.

The FPA recognises that enhanced educational and training standards will benefit consumers. However, the cost of raising standards will also be felt by consumers. Our comments are made in the spirit of seeking a balanced approach to ongoing education and training of advisers.

If you have any queries or comments, please do not hesitate to contact me at [dante.degori@fpa.com.au](mailto:dante.degori@fpa.com.au) or on 02 9220 4500

Yours sincerely

**Dante De Gori CFP®**  
*Chief Executive Officer*  
Financial Planning Association of Australia<sup>1</sup>

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<sup>1</sup> The Financial Planning Association (FPA) has more than 14,000 members and affiliates of whom 11,000 are practising financial planners and 5,720 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and superannuation for our members – years ahead of FOFA.
- We have an independent conduct review panel, Chaired by Graham McDonald, dealing with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 26 member countries and the more than 175,570 CFP practitioners that make up the FPSB globally.
- We have built a curriculum with 18 Australian Universities for degrees in financial planning. Since 1st July 2013 all new members of the FPA have been required to hold, or be working towards, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners Board.

# **CONSULTATION PAPER 6: CONTINUING PROFESSIONAL DEVELOPMENT (CPD)**

FPA submission to:

FASEA

31 August 2018

## INTRODUCTION

Continuing professional development (CPD) programs are a cornerstone of all professions. Well-developed CPD programs deliver significant benefits to consumers, professionals and the professional community. Given the broad scope and fast pace of change experienced in the financial planning profession in Australia, CPD is the most relevant mechanism for financial advisers to ensure technical, legal and ethical knowledge and skills are maintained at a professional level.

A well-developed CPD program has a wide range of benefits. These include maintaining or improving skills and knowledge; sharing knowledge and best practice; and, most importantly, normalising professional standards. (Indeed, the courts have indicated the importance of CPD programs in ensuring professionals remain competent and up to date with changes to the law<sup>2</sup>.) These benefits lead to an additional benefit of increased public confidence in the profession.

As well as increasing knowledge and skills, CPD programs: provide tools to cope with change; promote better engagement with clients; promote the development of new and broader expertise; advance the knowledge and use of technology within the profession; promote collaborative learning; and continually increase professional standards.

CPD programs are an integral part of the professional framework that ensure professionals are competently performing services for their clients and allows for meaningful and lasting changes to be made in clients' lives through more complete and engaging interactions. While it is generally acknowledged that CPD programs in the financial services industry are more robust and of higher quality than other industries, the FPA has been concerned for some time that CPD is viewed by many in the industry as merely a compliance obligation, and that quality and choice of CPD programs and activities have been too limited for too long. FPA members also regularly point out that the current CPD regimes have created confusion and inconsistency due to multiple regulators, professional associations and content providers each establishing different CPD frameworks to comply with. The introduction of professional CPD standards set by FASEA creates an opportunity to address these issues.

Professionalism is demonstrated by putting clients first, living by a code of ethics and demonstrating professional conduct in all interactions with consumers - so that consumers can have trust in the professional they partner with. The FPA's view is that the profession of financial planning is bigger than the limiting and narrow focus of regulatory compliance (or RG146 and Tax Practitioners Board requirements) and that advisers deserve professional development that encourages them to perform better and grow in their professional life.

For this reason, in 2009, FPA members developed the FPA's CPD Policy to deliberately move beyond the competency areas identified in ASIC's RG146 and instead broadened the definition of professional development to cover a more complete and multi-dimensional model of what it means to be a financial adviser.

FASEA's CPD Standard should similarly encourage broader professional development and recognise activities that are aligned to and support the financial adviser to be a well-rounded professional no matter what stage they may be at in their career.

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<sup>2</sup> *Stasos v Tax Agents' Board* [1990] FCA 379, paragraph 49

In the FPA's view, the CPD Standard should:

- position CPD not as a compliance challenge but an opportunity to maintain personal and professional confidence and proficiency;
- broaden the range and type of CPD activities undertaken;
- encourage financial advisers to reflect upon their own professional practice;
- ensure CPD supports financial advisers in meeting their legal and ethical obligations; and
- promotes the pursuit of opportunities for financial advisers to engage with the profession and the wider community.

For this reason, we encourage FASEA to build a CPD Standard which will support the professionalism of all financial advice providers. It is the FPA's view that the CPD framework encourages the development and completion of CPD at a level befitting a professional community, and provides a consistency of language and format to encourage greater engagement and understanding of the importance of a professional CPD program.

We therefore support efforts to ensure advisers develop and maintain the level of skills and knowledge needed to provide advice of a professional standard. We also generally support FASEA's proposed standards for CPD. However, in our view, maintenance of such a standard can be achieved by requiring advisers to complete 30 hours of CPD per year rather than the 50 hours per year proposed by FASEA.

To assist in our response, we recently conducted a survey of our members on FASEA's proposed CPD standard. We refer to results of the survey in our response to the questions raised in FASEA's consultation paper.

## CONSULTATION QUESTIONS

### S3 Responsibility for Continuous Professional Development

Proposal: FASEA proposes that the relevant provider develop and maintain a PDP on a continuing basis, completes at least 50 hours of CPD activity in each CPD Year, maintain a continuous up-to-date and accurate record of their CPD activities, and provide their records to the Licensee in order for them to meet their CPD requirements. See section 3 for more details

#### *Question*

S3.1. Do you agree with the proposed requirement for 50 hours of CPD per year, 70% of which should be approved by the licensee? If not, why not?

#### *FPA response*

In our view, the number of hours prescribed in the proposal is excessive. Indeed, 60% of survey respondents did not agree that 50 hours is appropriate. Many commented that 30-40 hours would be appropriate.

In setting the CPD standard for financial advisers, it is appropriate to consider the CPD standards of other professions. We understand, for example, that lawyers are required to complete 10 CPD points per year, and for most activities a CPD point represents 1 hour of a CPD activity<sup>3</sup>. In general, most professions have CPD standards at a minimum of 30 hours per annum (although more commonly set at 90 hours per triennium).

We would recommend that instead of the proposed 50 hour minimum requirement, a requirement of a minimum of 30 hours CPD per year be set. This represents an increase for many in the industry and is in line with the minimum CPD requirement that generally applies to members of associations that represent the financial planning profession.<sup>4</sup> Further, professional associations can set higher standards for certain categories of advisers. For example, the FPA requires CFP members complete 120 hours of CPD over a triennium.

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<https://www.lawsociety.com.au/ForSolicitors/practisinglawinnsw/yourpractisingcertificate/mclecpd/index.htm>

<https://www.actlawsociety.asn.au/public-information/questions-about-mandatory-cpd>

<https://www.liv.asn.au/CPD-Networking/Home>

[http://www.qls.com.au/For the profession/Your legal career/Continuing professional development CPD](http://www.qls.com.au/For_the_profession/Your_legal_career/Continuing_professional_development_CPD)

<https://www.lpbwa.org.au/Legal-Profession/Continuing-Professional-Development>

[https://www.lawsocietysa.asn.au/LSSA/Lawyers/Support/Professional\\_Development.aspx?WebsiteKey=bf611791-fae7-49b2-884d-cf15580b554e](https://www.lawsocietysa.asn.au/LSSA/Lawyers/Support/Professional_Development.aspx?WebsiteKey=bf611791-fae7-49b2-884d-cf15580b554e)

<https://lst.org.au/professional-development/cpd-requirements-tasmania/>

<sup>4</sup> See for example, [https://fpa.com.au/wp-content/uploads/2016/06/2016\\_05\\_18-CPD-Policy-2016\\_5-FINAL.pdf](https://fpa.com.au/wp-content/uploads/2016/06/2016_05_18-CPD-Policy-2016_5-FINAL.pdf)

We support a minimum of 70% of an adviser's CPD having to be approved by their licensee. Over 70% of survey respondents said they supported this aspect of the measure.

### **Recommendation**

The FPA recommends:

- Each advisor must complete a minimum of 30 hours CPD per year

### **Question**

S3.2. Do you agree with the proposed Licensee approved CPD approach and the proposal for a published CPD policy? If not, why not?

### **FPA response**

While we support licensees approving CPD (which they already do to meet their current regulatory obligations), we recommend that FASEA set criteria for assessment of CPD. We also recommend that licensees can fulfil this requirement by adopting by reference the CPD policy of third-party organisations, such as professional associations. Further, we recommend that it for a licensee to approve CPD that has been accredited by a third-party assessor, such as professional associations.

We do not support the requirement that the licensee CPD policy be published. While there may be some consumer benefit in having access to this information, we question whether any consumer would actually read the policy. Given that there are additional costs of ensuring that documents are presented in an attractive format, we question whether there is a net consumer benefit of publication.

We would recommend that licensees should, on request by a consumer, make their CPD policy available to the consumer. This could include the adoption of a CPD policy by a third-party such as a professional association. While, of course, the policy should be presented in a way that is understandable by ordinary people, licensees will be less concerned about making potentially costly changes to the look and feel of the document as few consumers would be expected to request a copy.

We seek clarification as to how a licensee could approach the evidencing of outcomes of CPD. For some CPD activities, the CPD provider simply forms an expectation, based on appropriate assessment criteria, as to the learning outcomes that advisers in general would achieve, or assesses individual advisers as competent or not competent based on such assessment criteria. Would each of these approaches suffice for the purposes of evidencing the outcomes of CPD?

In the case of a CPD activity for which there is no authoritative assessment of the associated learning outcomes, will an adviser recording what they self-assess, against appropriate assessment criteria, to be their achieved outcomes suffice for the purpose of the licensee's policy on evidencing the outcomes of CPD?

### **Recommendation**

The FPA recommends:

- FASEA issue principles for assessing CPD, including the adoption of existing CPD accreditation standards provided by third parties such as professional associations.
- Not requiring licensees to publish their CPD policy and allowing them to adopt CPD policies by third parties such as professional associations.

### **Question**

S3.3 Do you agree with the proposal to develop and maintain a Professional Development Plan? If not, why not?

### **FPA response**

We agree with the proposal that an adviser may develop and maintain a PDP that identifies areas for improvement in competence, knowledge and skills and the professional development proposals for making those improvements.

Under the general law, PDPs should be optional and allow advisers to, for example, set goals for the number of hours of each category of professional competence. Advisers may choose, for example by agreeing to the rules of their professional association, to adopt a PDP and, potentially, a format for the PDP and a process for creating, achieving and enforcing the PDP. The FPA requires its members to have a PDP and to adopt a step-by-step process for creating and achieving the PDP.<sup>5</sup>

We do not recommend that FASEA prescribe requirements in relation to the PDP. This is because of practical considerations such as the cost of changing legacy systems to adopt a uniform PDP standard. However, we believe that there is value in providing a suggested template as this might encourage a uniform approach to PDP, which would in turn reduce the time and costs advisers and licensees incur when advisers move between licensees.

### **Recommendation**

The FPA recommends:

- That an adviser may develop and maintain a PDP

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<sup>5</sup> See [http://fpa.com.au/wp-content/uploads/2015/10/2015\\_PDPTemplate.doc](http://fpa.com.au/wp-content/uploads/2015/10/2015_PDPTemplate.doc)

## S4 CPD Requirements

- FASEA proposes that an Hour system for calculating CPD and that formal education will contribute to the CPD requirement. FASEA also provides a framework for different categories of learning and the rules for accrual of hours for each category. FASEA will provide guidelines for Licensee's [sic] to provide a self-assessment approval of different types of non-formal CPD. FASEA requires CPD record keeping by the relevant provider and the Licensee and will provide a CPD Activity template for guidance. Further details in Section 4

### Question

S4.1 Do you agree with the proposal for an hours based system of CPD calculation? If not, why not?

### FPA response

We agree with the proposal for an hours-based system. We note that the TPB also uses an hours-based system for continuing professional education. Consistency of approaches among the different regulators will help minimise compliance costs and, in turn, provides practical grounds for supporting our view.

### Recommendation

The FPA recommends:

- Adoption of an hours based system

### Question

S4.2 Do you agree with the types of CPD activities proposed? If not, why not?

### FPA response

We agree with the types of CPD activities proposed, being formal education, non-formal education and other CPD. We do not agree that formal education that counts towards CPD requirements be capped. Given that the hours that can count towards CPD requirements of each knowledge and skill category has a minimum requirement, we would prefer that formal education not be capped. Removing the maximum hours cap on formal education for CPD purposes will encourage advisers to undertake additional study that leads to further qualification.

The requirement to complete a minimum number of CPD hours proposed per year within each of the categories may be challenging to meet, as one category may change more frequently than others. For example, technical content changes more frequently than professionalism and ethics and as a result more time needs to be allocated to technical topics and, given that professionalism and ethics will already be covered in upfront education, less time needs to be given to professionalism and ethics.

We also note that adult learners obtain knowledge in different ways, including through seeing, hearing or doing. To ensure we are catering to each of these learning styles, we recommend that in addition to professional or technical reading the category of other CPD cover a variety of formats, for example, professional or technical podcasts, videos and games.



### **Recommendation**

The FPA recommends:

- That the categories of CPD activity be formal education, non-formal education and other
- That in addition to professional or technical reading the category of other CPD cover a variety of formats, for example, professional or technical podcasts, videos and games

### **Question**

S4.3 Do you agree with the proposed evidence and record keeping requirements? If not, why not?

### **FPA response**

We support that evidence be recorded and maintained by the adviser or licensee for both approved and non-approved CPD. We also agree that the appropriate evidence be determined at the time of accreditation of CPD and should include documentation of activities undertaken and evidence of completion.

We seek clarification about how outcomes of CPD obtained would need to be assessed. In our view, where CPD does not involve a formal assessment the following should suffice:

- outcomes that advisers would reasonably be expected, based on appropriate assessment criteria and general experience, to achieve
- self-assessment by the adviser, by reference to such criteria, of outcomes achieved

### **Recommendation**

The FPA recommends:

- Evidence be recorded and maintained by the adviser or licensee for both approved and non-approved CPD
- Where CPD does not involve a formal assessment the following should suffice:
  - outcomes that advisers would reasonably be expected, based on appropriate assessment criteria and general experience, to achieve
  - self-assessment by the adviser by reference to such criteria, of outcomes achieved

### **Question**

S4.4 Do you agree with formal education as a contribution to the CPD requirement? If not, why not?

### **FPA response**

We agree that formal education should be able to count toward the CPD requirement. Formal education rigorously assesses the individual performance of students. This approach to CPD should be encouraged. Indeed, 80% of survey respondents said they supported formal education being included as a CPD activity.

We disagree that the hours of formal education that can count toward CPD be capped. While we appreciate that under the new statutory framework for professional standards, advisers must have a degree (or degree equivalent) qualification and, in addition, complete CPD on an ongoing basis, we question why study toward the former requirement can't also count fully toward the latter requirement. As the annual study burden per year increases, the extra benefit of each additional unit of study is likely to diminish. For example, a working adviser completing a couple of bridging course of say 120 hours each to help meet their upfront education requirements, who also has to complete additional CPD to meet their ongoing education requirements, is unlikely to learn and retain as much from the additional CPD as they would have if they were not undertaking the bridging courses. This is because of limits on the ability to absorb and retain information. We question whether the cost (including in terms of lost work time) of the additional CPD will exceed the benefit.

Removing the maximum hours cap on formal education for CPD purposes will also encourage advisers to undertake additional study that leads to a further qualification, once the initial education standards have been met. We think such encouragement desirable.

Also, minimum requirements in each category of knowledge and skills will ensure that CPD must cover a diverse range of topics, regardless of the CPD activity undertaken.

#### **Recommendation**

The FPA recommends:

- Uncapped formal education count toward CPD requirement

#### **Question**

S4.5 Do you agree with the CPD framework which provides examples of the different categories of learning activity and the rules for hours accrual in each category? If not, why not?

#### **FPA response**

We are concerned about the proposed allocation of CPD to knowledge areas. 54% of survey respondents did not support the proposed CPD categories of knowledge and skills and did not support the hours proposed for each category. Many respondents commented specifically on the proposed allocation of 10 hours per year to ethics. There is a risk, given that all advisers must complete an ethics course as part of their upfront educational requirements and that code monitoring jurisprudence may develop slowly, that in order to meet this requirement advisers will need to undertake activities that overlap or duplicate each other.

We also seek clarification as to whether the category, other advisers/licensee selected CPD is intended to cover only areas not already covered by the other categories. We also seek examples of the knowledge and skills areas intended to be covered by other advisers/licensee selected CPD and confirmation that economic and social environment are examples of such knowledge areas.

We recommend a minimum of 2 hours per year be allocated to each of technical competence; client care and practice; regulatory compliance and consumer protection; professionalism and ethics; and other advisers/licensee selected CPD. The remaining 20 hours per year are to be allocated by the adviser or licensee over any one or more of those five categories.

In addition, we recommend that FASEA work with ASIC to ensure that ASIC's AFSL authorisations applicable to licensees and authorised representatives are aligned with FASEA's knowledge and skills categories.

#### **Recommendation**

The FPA recommends:

- A maximum of 30 hours CPD
- A minimum of 2 hours per year be allocated to each of the following:
  - technical competence
  - client care and practice
  - regulatory compliance and consumer protection
  - professionalism and ethics
  - other advisers/licensee selected CPD
- The remaining 20 hours per year are to be allocated by the adviser or licensee over any one or more of those five CPD categories.
- FASEA work with ASIC to ensure that ASIC's AFSL authorisations applicable to licensees and authorised representatives are aligned with FASEA's knowledge and skills categories.

#### **Question**

S4.6 Do you agree with the proposal that FASEA will not accredit CPD activities or providers, but will provide a guide with principles, to optimise consistency in the Licensee self-assessment approach? If not, why not?

#### **FPA response**

We agree with the proposal that FASEA will not accredit CPD activities or providers, but will provide principles for assessing CPD. Given that the CPD requirement is intended to set a minimum acceptable benchmark for advisers, it is important that the benchmark doesn't vary widely from one licensee to another. For this reason, it is important that FASEA set criteria that will encourage consistency under the self-assessment approach.

#### **Recommendation**

The FPA recommends:

- FASEA does not accredit CPD activities or providers
- FASEA provides principles for licensee self-assessment of CPD

## **S5 Proposed Templates as guidance only**

Proposal: FASEA proposes that it will make available CPD Activity and Professional Development Plan templates as a guide only.

### **Question**

S5.1 Do you agree that templates are useful and should be used as a guide only?

### **FPA response**

We agree that templates are useful and should be used as a guide only. On the one hand, there are likely to be benefits from standardising the CPD activity report and the PDP. For example, this would allow an adviser's prospective licensee to more easily assess the CPD the adviser completed while at an existing or previous licensee. However, on the other hand there are costs associated with standardising systems and reports to adapt to a single template.

We believe the optimal approach is for FASEA to produce a suggested template in digital and paper-based format, which advisers and licensees can adapt to their circumstances.

### **Recommendation**

The FPA recommends:

- That FASEA issue a suggested template for the CPD activity report and the PDP

### **Question**

S5.2 Are there any other resources or templates that would be useful?

### **FPA response**

A common concern expressed to the FPA about FASEA's CPD proposal is in relation to the sub-categories of knowledge and skill areas that would sit under each of FASEA's proposed categories. We recommend that FASEA make available to the public a list of sub-categories of knowledge and skill areas that sit under each category. As stated above, we also recommend that ASIC's AFSL authorisations s applicable to licensees and authorised representatives are aligned with FASEA's knowledge and skills categories.

We would also recommend that the CPD Standard include a provision covering how the CPD obligations apply to advisers who have had extended absences (e.g. because of a disability, having a baby or taking a career break). For the purposes of this submission, we aren't recommending a particular approach to dealing with this issue. We are merely raising the issue as one that should be addressed.

## **Recommendation**

The FPA recommends:

- FASEA make available to the public a list of sub-categories of knowledge and skill areas that sit under each category.
- A document is made available to the public that maps ASIC's AFSL authorisation areas applicable to licensees and authorised representatives against FASEA categories
- FASEA include a provision covering how the CPD obligations apply to advisers who have had extended absences (e.g. because of a disability, having a baby or taking a career break)