

# Complaints and Discipline Report

01 July 2016 to 30 September 2016

The FPA is committed to informing members and the community of the trends and outcomes of complaints and disciplinary action in the financial planning profession. It is important for members and the community to be confident that the profession takes a strong position on the protection of the reputation of financial planners by responding to breaches of its professional expectations.

As well as communicating the activities of professional accountability, the FPA's goal is to assist members in appreciating the types of complaints received, to encourage members to consider their own practises, and to provide guidance for complaint protection.

## Disciplinary Activity Summary

In the July to September quarter, the FPA received 13 new complaints, finalised three complaints and has 13 ongoing complaints. Of those ongoing complaints:

- The previously adjourned proceedings before a Conduct Review Commission (CRC) panel concluded in August and the FPA has made written submissions. It is anticipated that the member's submissions,

COMPLAINTS & DISCIPLINARY REPORT	
01 July 2016 to 30 September 2016	
Complaints ongoing as at 1 July 2016	3
New complaints	13
Complaints closed	3
Complaints ongoing as at 30 September 2016	13
Members suspended	0
Members expelled (CRC)	0
Members terminated (Constitution) *Sarah Gardner	1
Other sanctions (CRC)	0
Referred to Professional Designations committee for sanction	0

- and the FPA's reply, will be finalised early in October, before the panel makes a written determination (published on the FPA website) in respect of each breach before it that it is either proven or dismissed;
- Another CRC panel held proceedings over one day in September. The panel will similarly make a written determination; and
  - Nine of the complaints received during this quarter relate to alleged academic misconduct.

## The year in review

The Annual Report on Professional Standards (the Report) will be published later on in the year, expected to be available on the FPA website in November 2016. The Report has been published on an annual basis since 2010, and contains insights into the FPA's work and developments broadly across the Professional Regulatory Framework, as well as specifically within the FPA's professional membership, professional conduct and professional accountability programs.

Following is a high level snapshot of activities by the Professional Accountability team during the 2015/16 financial year:

- We received a total of 26 formal complaints, down slightly on the 30 last year.
- We finalised a total of 31 complaints, up slightly on the 29 from last year.
- As at 30 June 2016, we had three outstanding complaints, well down on the eight at the same time last year.
- Additionally, we received a total of seven FPA Confidential matters, down significantly on the 16 last year, and we finalised a total of 11 matters. As at 30 June 2016, we had only one outstanding matter, compared to five at the same time last year.
- We dealt with 62 instances of misuse or unauthorised use of either the FPA brand or CFP® designation. This is a decrease of almost 30 per cent from last year.
- We conducted a total of 24 Advice Reviews as part of the Cbus Referral Program.
- The CRC delivered a determination as a result of a disciplinary hearing into a particularly egregious matter. The member was expelled and ordered to pay the hearing costs after borrowing \$990,000 from a client in highly questionable circumstances,

on non-commercial terms and was unable to repay the loan when due (fpa.com.au > professionalism> professional-accountability > recent outcomes > CRC 2015\_1).

- The CRC directed the FPA to commence disciplinary proceedings against two members (both subject of panel hearing and awaiting written determination).
- We automatically terminated the membership of five FPA members by operation of the FPA constitution, compared to four last year. Of these five, one was banned by ASIC (of a total of 32 banned by ASIC), two were bankrupt, one was terminated by their licensee for a breach of the law, and one was found to have knowingly failed to provide material information on FPA application(s). A further two Associates had their status cancelled by the FPA after being banned by ASIC.

We further fostered the protection of the profession and the community, in responding to over 504 enquiries from members, consumers and other stakeholders in relation to professional standards related activity and guidance.

The Report itself will provide much more detail and context around this data and we encourage each member to read the Report when published.

## Academic misconduct

With the increased emphasis on education, the FPA has continued to see growth in enrolments in the CFP® Certification Program, and an increase in the number of investigations conducted into

suspected academic misconduct.

To demonstrate this, we investigated:

- three individuals in the 2014/15 financial year;
- 14 individuals in the 2015/16 financial year; and
- we are investigating nine individuals in the first quarter of the current financial year (not finalised).

All but two individuals investigated over this period have been/are being investigated for suspected:

- plagiarism involving another student – by copying from another student without that student's knowledge;
- collusion – where two or more students share answers or allow another student to copy from them (typical to these plagiarism and collusion cases is two or more students having identical text or unusual amounts of similar text in their assignments that is not from reference material); and
- plagiarism not involving another student - by copying a reference source (including course material) without proper referencing.

Of the matters investigated in the 2015/16 financial year:

- Two individuals were cleared of misconduct (copying of parts of their assignment had been by a student known to them but without their knowledge);
- one individual was referred for disciplinary proceedings (this matter is ongoing and a written determination will be published when finalised);
- one individual had their association with the FPA cancelled; and

- 10 individuals were found to have engaged in plagiarism or collusion and were referred to the Professional Designations committee, where they were each subjected to a range of sanctions including: exclusion from the program for a period of time; recorded fail for the particular subject; and reprimanded.

Following is a reminder of tips for students when completing studies with the FPA (or any provider):

1. Make sure you are familiar with the academic misconduct policy (don't just sign the declaration).
2. First and foremost, ensure all work you submit is your own (or referenced to the required standard where citing another source);
3. Study groups form an important part of distance education and are encouraged to facilitate discussion of the topics. However, you should never share answers you have prepared for an assignment with other members of a study group, nor should you copy another student's answer in part or in full.
4. Do not keep your assignment in a location where it can be accessed by others without your knowledge, either in hard (e.g. a printed copy) or soft copy (e.g. a shared drive, unsecured device or portable device) form.

## Obtaining client personal information from external sources

The FPA was recently informed of an increase in detection of financial services personnel, including planners/advisers, contacting a superannuation fund and dishonestly purporting

to be a particular client. The purpose of the call is to obtain personal information about the client and obviously occurs in order to streamline the obtaining of information ordinarily entitled to under an appropriate client authority and/or by having the client obtain the information directly.

Although there have not been any specific complaints to the FPA alleging this conduct by an FPA member or allied professionals, we thought this information provided an opportunity to remind FPA members and allied professionals of their professional (and potentially legal) obligations under the FPA Code to not engage in such activity.

## FPA Code e-learning program

Members are encouraged to undertake the FPA's Code e-learning program on the FPA website, [fpa.com.au/professionalism/](http://fpa.com.au/professionalism/). This interactive program will introduce you or refresh you on the FPA Code, its rationale and components. Completion of this program will also earn you 1.5 CPD hours (ethics).

## Enquiries or dilemmas

The FPA Professional Accountability team always welcomes contact from member's who seek information, clarification or guidance on applying the FPA Code and other enforceable requirements of membership to practice. You may contact the Professional Accountability team directly by email at [professionalstandards@fpa.com.au](mailto:professionalstandards@fpa.com.au) or telephone on (02) 9220 4523 or (02) 9920 4520.