

Role of Code Guidance

FASEA made the Code of Ethics in February 2019. In making the Code in February 2019 FASEA also issued an explanatory statement that included guidance on its interpretation that FASEA determined was sufficient for advisers to understand the Code. The explanatory statement included case studies FASEA considered sufficient to demonstrate how the Code could be applied to various scenarios. The finalisation of the Code and related guidance in February 2019 occurred 10 months before the Code's commencement on 1 January 2020.

Based on feedback received about the code, additional guidance issued in October 2019 was designed to provide further illustration of how the Code could be applied by advisers. The additional guidance was not released as a definitive piece of guidance without which advisers could not understand the code. This is affirmed by advice contained in the October guidance that states:

The Code is a compulsory code of ethics for all relevant providers who provide financial services to retail clients. The Code also applies to provisional relevant providers, once authorised, and registered by their licensee on the Register of Relevant Providers under section 922Q of the Act.

As is the case with all other professions, ultimate responsibility for applying the tenets of the Code falls on individual advisers. Each must be ready to give an account of how they have interpreted and applied the Code in specific situations.

This guide uses case study examples to help illustrate requirements in the Code. They are not intended to provide definitive guidance.

As noted previously, individual circumstances will differ in practice and, as with every profession, there is allowance for differences of professional opinion on how the ethical rules of the profession should apply in a particular case. Doing what is right will depend on the particular circumstances and requires you to exercise your professional judgement in the best interests of each of your clients.

In response to stakeholder input received after release of the October 2019 guidance, FASEA released further interpretive guidance in December 2019 responding to matters raised by stakeholders. FASEA will release additional interpretive guidance from time to time as it becomes aware of matters stakeholders would benefit from receiving guidance on.