

Through the looking glass

A woman with long, light-colored hair is looking through a glass pane. Her hands are pressed against the glass, and her face is partially obscured by the reflection and the glass itself. The lighting is dramatic, with strong highlights and deep shadows, creating a sense of looking through a barrier.

A new study will put renewed focus on individual professionalism and ethics in financial planning

A major new study into professionalism and ethics in financial planning is being undertaken in 2006 and is set to refocus the industry on the individual adviser and their relationship with clients.

The PhD study is being undertaken by June Smith, former General Counsel and General Manager Policy and Regulation at the FPA and now a Law Partner with the Argyle Partnership.

The study will be conducted through the International Centre for International Corporate Governance Research, Victoria University. The PhD is being supervised by Professor Anona Armstrong, whose credits include membership of the Standards Australia Business Governance Committee, which recently released the Australian Standard on Good Governance Principles, and Professor Ronald Francis, an expert in Codes of Ethics.

The study will be one of the first of its type conducted in Australia on financial planners. Only financial planners in the United States have been the subject of a similar study.

The need for the study

Whilst transition to the new Financial Services regulatory regime focused on the minimum legal requirements for the provision of financial services and the regulation of Australian Financial Services Licensees, there has been very little focus on the ethical obligations and decision-making of the individual professional adviser.

Smith aims to redress this imbalance with her study. She says that the relationships financial planners have with their clients and the ethical framework that underpins them, is



June Smith

pivotal to the ability of the planner to provide a professional and effective service.

Further, financial planners deal with a range of ethical dilemmas in their daily practice, which often arise in circumstances where there are multiple stakeholders, interests and values in conflict and where the law may be uncertain. There are no black and white answers to fall back on in this environment. Smith hopes to refocus attention on the value that professional judgment and ethical decision-making can bring to the resolution of issues facing planners in the provision of advice to clients. In her view, the factors that may influence that judgment also warrant greater attention.

In this context, Smith argues that the ethical climate and culture of the Licensee have a significant role to play in positively influencing the ethical conduct of employees and advisers and with suitable role models, should also assist the licensee to embed a culture of compliance. Smith believes the ability to influence this ethical context can have a bearing on the AFS Licensee's ability to meet its obligations, to provide services in an efficient, fair and honest manner, its reputation within

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the marketplace, and the quality of the advice that will be given to clients. She hopes to prove these links exist with her study.

The study is also very timely, given the significant changes taking place in the financial services industry currently, including the focus on remuneration structures and the recent decision by the FPA to delink the Certified Financial Planning Practitioner mark from Principal membership from July 1, 2007.

The study itself

The research will use a series of surveys to reveal:

- How financial planners identify ethical dilemmas;
- The cognitive frameworks they use to make decisions;
- The tools and values also relied on;
- The dynamic between the individual financial planner and the organisation for whom they work, including the perceptions financial planners have of the ethical climate and culture of the organisation;
- Any perceived gaps between the adviser's and the organisation's ethical values.

Smith believes the latter points are important because an organisation's ethical climate should help to determine:

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- a) What employees/advisers believe constitutes ethical behaviour at work;
- b) Which issues employees/advisers consider to be ethically pertinent; and
- c) What criteria they use to understand, weigh and resolve issues.

What should happen is that the ethical climate of the organisation is effectively contributing to the:

- a) Types of ethical choices and conduct that the organisation wants from its employees/advisers; and the

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- b) Quality and consistency of ethical decision-making.

For it to be effective, the ethical climate must also be consistent with and contribute to the strategic direction and goals of the organisation. The study will measure whether this is, in fact, happening.

The survey will also be replicated on compliance managers from financial services organisations to determine whether their level of ethical reasoning and perceptions of ethical culture and ethical climate within financial planning firms, differ from those held by financial planners.

What's involved

The research will consist of a number of stages.

Stage One – An analysis of consumer com-

plaints investigated over the last two years by the Australian Securities and Investments Commission (ASIC) and complaints lodged by consumers over the same period with the Financial Industry Complaints Service.

Stage Two – The development of case scenarios derived from this analysis that describe ethical dilemmas that regularly arise in the daily professional practice of a financial planner.

Stage Three – A pilot survey of financial planners to assist in identifying factors they believe may be influencing the ethical decision-making of financial planners.

Stage Four – The completion of a research questionnaire by financial planners on a voluntary basis. The first part of the questionnaire will test how the planner identifies an ethical dilemma, what level of reasoning, tools or skill sets they use to resolve that dilemma and how they would act in the given situation. The second part of the questionnaire will involve asking advisers for their perceptions of the ethical climate and ethical culture within their organisations.

The participants will also be asked some demographic questions enquiring into education, employment, compensation, career experience, age and gender.

The same survey questionnaire will also be sent to compliance managers.

Who should take part?

Smith is looking to survey 1,000 financial planners and 100 compliance managers across Australia. There will also be groups convened to undertake a pilot study and focus groups.

The study will not seek to obtain sensitive information from participants, who will be free to decline to answer any question they wish. Participants may also withdraw from the study at any time. All participants will be asked to sign a consent form to this effect prior to taking part in the study.

What will it achieve?

Smith hopes the study will provide some

direction for financial planners in their quest to be identified as a profession, and refocus attention on the value that professional judgment and ethical reasoning bring to the planner/client relationship.

She also believes the study can be a catalyst for Licensees to review their ethical climate and culture, so as to assist in reducing risk within their business and positively impact on the ethical conduct of employees and advisers.

The study is expected to provide direction on how to align the ethical decision-making and professional obligations of the individual practitioner, with the organisation for whom they work and the ethical expectations of their stakeholder groups.

It should also provide a foundation from which to develop training and education materials and a model ethical framework for financial planning firms that incorporates and links their commercial imperatives, legal obligations and ethical context with the professional obligations of the financial planner.

When will it take place?

The pilot studies are expected to be conducted in mid 2006. Data collection for the main study is due to begin in September/October this year and Smith expects to release final findings in late 2007.

Smith hopes AFSL Licensees will also assist with the project. The survey elements of the project can be distributed through CPD sessions either at conferences or as part of a CPD program.

Whilst the FPA will be assisting with the distribution of questionnaires to members and with CPD and conference session participation, if you want to take part in the project or learn more about it, e-mail June at jsmi4525@bigpond.net.au or jsmith@argylelawyers.com.au, or phone 0418 346 382.

The Argyle Partnership Lawyers will, from time to time, post progress reports on the study and provide other articles of interest on its web site at www.argylelawyers.com.au. ❖