Professionalism and Ethics in Financial Planning

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ABSTRACT

Financial planning advice is becoming increasingly relevant to the economic objectives of Australians. However, the evidence suggests there are numerous ethical risks related to the provision of that advice and other factors that may be influencing the ethical decision making of financial planners and compliance officers in their respective roles.

The purpose of this study was to enhance understanding of the ethical decision making of these financial planning participants within this context. This study is therefore a significant one in what is a relatively under-researched area of interest.

The study's purpose was converted into seven research questions, two of which concerned the primary types of unethical conduct occurring in the provision of financial advice and respondent perceptions of the current ethical issues they face in their respective roles within financial services organisations. Nine hypotheses were linked to the other research questions to measure whether there were statistically significant relationships between different constructs, and to test respondent perceptions of the ethical climate and culture of their organisation.

The conceptual framework underpinning the study recognized that there are numerous individual, situational and contextual predictors of ethical decision making. The predictors measured in this study included cognitive ethical reasoning and other individual attributes of the decision maker, such as their gender (H1), age, education, experience and accreditation to use the CFP® professional designation (H2).

The study also measured the influence of the situational and contextual factors associated with the organisational environment in which the decision was made. The situational construct measured was the size of the organization (Hitt 1990)(H3). Contextual factors included remuneration source, (Bigel 1998) (H4), the respondent's role within the organization (Pennino 2002; Martin 2000) (H5), the ethical culture (Trevino, Butterfield & McCabe 1998) (H6) and the ethical climate of the organization (Victor and Cullen 1988) (H7 & 8), and the presence of ethical leadership (Schminke, Ambrose & Neubam 2005) (H9).

The research design utilised a mixed methods approach comprising both quantitative and qualitative research methods to test the seven research questions and nine hypotheses posed. The quantitative methods adopted included an analysis of consumer complaints against financial planners between 2006 and 2007, so as to determine unethical conduct patterns. A research questionnaire was also developed for the purpose of hypothesis testing. Qualitative methods adopted included the convening of a focus group to test perceptions of the current ethical issues facing financial planning participants.

The primary dependent variable of cognitive ethical reasoning was measured by a profession specific test developed for the purposes of this study, called the Financial Advisory Issues Test. This instrument was based on previous research instruments, including the Defining Issues Test 2 developed by Rest *et al.* (1999b). The instrument was influenced by Kohlberg's (1976) model of moral development and Rest's (1984) theory of ethical development schemas. In addition, the ethical culture and climate constructs measured in this study were also operationalised by scales derived from previous research conducted by Trevino (1986) and Victor and Cullen (2001).

To achieve the study's objectives, a number of different methods of data analysis were applied, including descriptive statistics, Pearson's product-moment correlation co-efficient and Spearman's correlation co-efficient. Correlation and regression analysis were chosen as the primary methods of data analysis because they are based on linear method, depend on normality assumptions and do not test for causality (Hansen & Morrow 2003).

The study identified the ten primary forms of unethical conduct by financial planners in 2006-2007 and the top five ethical issues facing financial planning participants in their respective roles. The major conclusions drawn from the hypothesis testing included findings that cognitive ethical reasoning among respondents was positively related to older age, years of experience and the CFP® professional designation, thus reaffirming previous research findings by Bigel (1998).

The study also supported conclusions that financial services organisations may not have in place relevant systems and procedures associated with ethical culture and compliance

officers and financial planners have different perceptions of the ethical climates within financial services organisations. Perceptions of ethical leadership within an organisation were also positively correlated to certain ethical climate types.

The study makes numerous theoretical contributions to the existing academic knowledge base. In particular, it provides a comprehensive analysis of the patterns of unethical conduct in financial planning and the ethical issues facing financial planning participants in their respective roles. Further, it makes a significant contribution to the knowledge related to the ethical decision making of the respondent groups and the individual, situational and contextual factors that influence it. This thesis has also enhanced knowledge of the attitudes and perceptions of financial planning participants of the ethical culture and ethical climate within Australian financial services organisations.

The study makes a practical contribution to financial planning as it identifies gaps in existing ethics frameworks within financial services organisations.

DEDICATION

For my Mother and Father

and to

Andreus, Bella and Nicholas

With love

DECLARATION OF AUTHENTICITY

I, June Smith, declare that the PhD thesis entitled "Professionalism and Ethics in Financial Planning" is no more than 100,000 words in length, including quotes and exclusive of tables, figures, appendices, bibliography, references and footnotes. This thesis contains no material that has been submitted previously in whole or in part, for the award of any academic degree or diploma. Except where otherwise indicated, this thesis is my own work.

Signature:…………………………………… Date:……………………………………

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GLOSSARY OF DEFINED TERMS

Term	Definition
AFS Licensee	A company or person licensed under the Corporations Act 2001 to provide financial product advice and services to Australian consumers.
Authorised Representative	Financial advisers who are an employee, or an authorized representative of an AFS Licensee, engaged to provide financial services and financial product advice to Australian consumers.
Compliance Officer	Any person appointed by an AFS Licensee with responsibility for ensuring that the Licensee and its advisers comply with relevant legal obligations and includes the positions entitled "compliance officer", "compliance manager" or "responsible manager".
Conflict of Interest	A circumstance where some or all of the interests of clients to whom an AFS Licensee (or its representative) provides financial services, are inconsistent with or diverge from, some or all of the interests of the Licensee or its representatives. This includes actual, apparent and potential conflicts of interest.
Ethical Behaviour	Encompassing the ethical reasoning of the study's participants and the relationship between this reasoning and their conduct.
Ethical Climate	A shared perception of what behaviour is right and what behaviour an organisation expects from its members.
Ethical Conduct	The conduct of respondents as expressed in the codified forms of professional conduct operating in the financial planning profession
Ethical Context	The internal psychological environment of an organisation and the relationship of that environment to individual meaning and organisational development. In this study it is represented by two multidimensional constructs, the ethical climate and ethical culture of the organization.

Ethical Culture	The observable manifestations of culture, such as formal and informal control systems of behavioural control that are capable of promoting ethical or unethical behaviour.
Ethical Decision Making	The process a financial planning participant to this study adopted when determining how to respond to a particular ethical dilemma.
Ethical Leadership	The demonstration of normatively appropriate conduct through personal actions and interpersonal relationships and the promotion of such conduct through to followers through two-way communication, reinforcement and decision-making
Ethical Principles	An ethical rule guiding personal conduct, a basic or general truth values that categorise the domain of moral action.
Ethical Reasoning	The cognitive reasoning adopted by a participant to the study in an attempt to resolve an ethical dilemma.
Ethics	A process of inquiry which requires the decision maker to consider facts in light of important values and morals in the context of explicit forms of codified behaviour.
Financial Planner	A person who offers financial planning advice for the proper management of a client's financial and lifestyle objectives, which incorporates the use of some or all of the six step process outlined by the FPA to Australian consumers. It includes the term "financial adviser", which has been used interchangeably in this thesis.
Financial Planning	The provision of financial advice for the proper management of a client's financial and lifestyle objectives, which incorporates the use of some or all of the six step process outlined by the FPA.
Financial Planning Participant	The financial planners and compliance officers who took part in this study
Gearing	To borrow money against existing assets in order to invest
Margin Loan	A loan facility that allows the borrower to invest the moneys

	raised from the loan, usually into a share or equities portfolio
Super Choice	The Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2004
The Westpoint Group Of Companies	The Westpoint Group of companies comprised 17 companies involved in the development of residential and commercial properties via property investment schemes. Nine of the companies were mezzanine finance companies. These 17 companies included Westpoint Corporation Pty Ltd, Emu Brewery Mezzanine Pty Ltd; York Street Mezzanine Pty Ltd; North Sydney Finance Ltd; Anne Street Mezzanine Pty Ltd; Bayshore Mezzanine Pty Ltd, Bayshore Port Melbourne Pty Ltd, Bayview Heritage Mezzanine Pty Ltd; Market Streets Mezzanine, No’s 1 and 2; 297 Murray Street Trust; the Warnbro Fair Syndicate; The Westpoint Income fund; Mount Street Mezzanine Pty Ltd; Paragon Commercial Syndicate; and the Scots Church development.
Values	The beliefs and principles individuals use to guide their actions, behaviours, and judgments of what is right and wrong and the selection of the social goals or ends that are desirable.

LIST OF ABBREVIATED TERMS

Abbreviated Term	Description
AAT	Administrative Appeals Tribunal
AFA	Association of Financial Advisers
AFS Licensee	Australian Financial Service Licensee
APESB	Accounting Professional and Ethical Standards Board
AS	Australian Standards
ASCI	Australian Standards Compliance Index
ASIC	Australian Securities and Investments Commission
BO	ASIC Banning Order
CFP®	Certified Financial Planner™ practitioner
CO	Compliance Officer
CPA	Certified Practising Accountant
CPA Australia	CPA Australia Ltd
DIT	Defining Issues Test
DIT2	Defining Issues Test 2
EDR scheme	External Dispute Resolution Scheme
ESIT	Engineering Science Issues Test
EU	Enforceable Undertaking
FAIT	Financial Advisory Issues Test
FCA	Federal Court of Australia
FICS	Financial Industry Complaints Service
FOS	Financial Ombudsman Service
FPA	the Financial Planning Association of Australia Ltd
FAIT	Financial Advisory Issues Test
FP	Financial Adviser
FPSB	Financial Planning Standards Board
FSR	Financial Services Reform Regulatory Regime
ICAA	Institute of Chartered Accountants
MJI	Moral Judgment Interview
NIBA	National Insurance Brokers Association
SDIA	Securities and Derivatives Institute of Australia
SMSF	Self Managed Superannuation Fund

SOA	Statement of Advice
Super Choice	Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2004
The Act	Corporations Act 2001 (Commonwealth)
OLS regressions	Ordinary Least Squared Regressions
U.S.A.	United States of America
FSA (UK)	United Kingdom Financial Services Authority
Westpoint	The Westpoint Group of Companies

CHAPTER 1: INTRODUCTION

Ethics, now there's a word worth considering (Kohler 2004, p. 1.)

1.1 Background

This study investigates the current factors that may be influencing the ethical decision-making of financial planners and financial services compliance officers within Australian financial services organisations, in the provision of financial advice to Australian consumers.

The topic is a significant and important one from an academic and societal perspective. From an academic perspective, this thesis argues that the question of how and why individuals make ethical decisions in the work place is complex. The study conceptualises that ethical decision making is predicted by a number of different constructs, including the attributes of the individual decision maker and the situational and contextual factors associated with the organisational environment in which the decision is made.

The study is also influenced by previous research that has supported the existence of links between ethical reasoning, ethical decision making and ethical behaviour. This thesis sets out to examine these relationships and measure the concepts and variables associated with ethical decision making, using financial planning as a context.

From a societal perspective, recent public debate suggests that financial planning is becoming increasingly relevant to the achievement of the political, economic and social objectives of Australians and their governments, including provision for retirement age and choice of superannuation fund (Weekes & Hoyle 2004; Wilson 2004; Sherry 2008b). There is an ever increasing and commensurate need to obtain expert financial planning advice to ensure a financially sustainable lifestyle and to provide for retirement years (Peel 2004; Gallop 2003). In particular, the Federal Government is determined to ensure that Australians have access to competent financial advice to help them make informed decisions about their superannuation funds (Sherry 2008a).

Recent statistics confirm the relevance of financial advice to the Australian economy. The 2005/06 Annual Report of the Australian Securities and Investments Commission (ASIC) (ASIC 2006f) estimated that there were 4,415 Australian Financial Service Licensees (AFS Licensees), across 15 financial markets. In 2007, the top 100 financial services organisations in Australia had 15,252 financial advisers who represented them (Money Management Magazine 2007). It has been estimated that over five million Australians currently seek advice from the 12,000 members of the Financial Planning Association of Australia Ltd (FPA) alone (FPA 2007b, 2007c). Those members invest $630 billion on behalf of their clients.

As at March 2008, superannuation fund assets in Australia were estimated at $1.1 trillion (Sherry 2008a). It has been projected that the total superannuation pool in Australia will grow to $2.2 trillion by 2015 and other retirement income assets are expected to grow to $320 billion in the same period (Smith, M. 2007)

In addition, according to data from the Australian Taxation Office (D'Ascenzo 2007b), almost 690,000 Australians are now members of a self managed superannuation fund (SMSF). On average each fund holds around $800,000.

These statistics tell a compelling story. They confirm that the financial advisory market is a growing and burgeoning one which exerts significant influence over the financial assets and economic wellbeing of the Australian public (ASIC 2007f). This thesis argues that financial planners are well placed to play an ever increasing and pivotal role in the ability of governments, regulators and Australians to meet their financial and economic objectives going forward.

There is therefore a growing spotlight on how financial planning advice is delivered and the regulatory and professional regimes that govern it (Smith, J. 2003; Powell 2003). This is illustrative of an international phenomenon, being played out in a myriad of countries including the United States (Wagner 2004; Certified Financial Planner™ Board of Standards Inc [U.S.A] 2007a, 2007c, 2007d)[1], Hong Kong and Malaysia (Gallop 2003, Financial Planning Magazine 2004c), Singapore (Financial Planning

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Magazine 2004c) and the United Kingdom (Powell 2003; Financial Services Authority 2007a, 2007b; Financial Planning Magazine 2003b; Young 2007).

There appears to be no universally held definition of the terms "financial planning" and "financial planner" in an Australian context. The FPA (2006d) defines "financial planning" as the process of meeting a person's life goals, through the proper management of their finances.

According to the FPA (2007b), financial planning usually comprises a six-step process. The process includes gathering relevant financial and personal information about the client, identifying goals and objectives, devising a strategy or financial plan to assist in achieving those objectives, implementing the recommendations contained in the financial plan and a review of the plan and its strategies on a regular basis.

For the purposes of this study, the term "financial planning" therefore means the provision of financial advice for the proper management of a client's financial and lifestyle objectives, which incorporates the use of some or all of the six step process outlined by the FPA.

To provide advice on financial products in Australia, such as superannuation or shares, a person or entity must be licensed under the Corporations Act 2001 (Commonwealth) (the Act) (ASIC 2002b; ASIC 2003a). AFS Licensees are usually companies (Money Management Magazine 2007, p.29). In this sense, financial planning, like health care (Khushf 1998) is being practised by institutions, not just by individual advisers.

Once licensed, an AFS Licensee can employ or authorize financial planners to represent it as agents, in the provision of advice to clients (ASIC 2006a, 2004c). In doing so, it takes on the primary responsibility to ensure that the advisers meet their legal obligations under the Act and other statutes (ASIC 2005g).

For the purposes of this study therefore, the term 'financial planner" is defined as a person who offers financial planning advice to Australian consumers according to the FPA definition outlined above. The term "financial planner" includes reference to the term "financial adviser", which means an employee or an authorized representative, engaged to provide financial services and financial product advice to Australian consumers, on behalf of an AFS Licensee. Financial planners, thus defined, are one of two respondent groups used in this study.

The terms “financial planner” and “financial adviser” are used interchangeably throughout this thesis because in an Australian context the terms are not formally differentiated, either by the Act or by the numerous stakeholders within the financial services sector (Bartholomeusz 2006, Barrett 2008). It is conceded however that within the Australian financial services industry, there are many financial advisers who do not consider themselves to be financial planners and many financial advisers who call themselves financial planners when they do not follow the six step process (Brown 2003).

All AFS Licensees must appoint a person or persons who have responsibility for ensuring that the Licensee and its financial planners comply with the legal obligations prescribed by the Act (ASIC 2003b). Depending on the size of the organisation, an AFS Licensee may engage only one person or a division of officers to undertake this task. There are also AFS Licensees who outsource this obligation to external contractors (ASIC 2002a). These individuals usually hold positions entitled “compliance officer”, “compliance manager” or “responsible manager”. For the purposes of this thesis, the term compliance officer is used to describe any respondent to this study who identified themselves as holding one of these three roles.

Those responsible for compliance are usually also responsible for monitoring and supervising the day to day practice of the organisation’s financial planners and the advice given by them to clients. This thesis contends that as a result, compliance officers are in a position to exert influence over the ethical decision making of the adviser, both in an organisational context and in the provision of advice to clients.

In addition, it is argued that research into the decision making of financial planners would be lacking, if the organisational context in which these decisions were made and the influence of those who supervised advice to clients on a daily basis, was not also measured. Compliance officers as defined above are therefore the second group of respondents used in this study.

Within this thesis, financial planners and compliance officers are also identified as one group from time to time by the term "financial planning participants."

1.2 Reasons for the Research

There are many reasons to conduct the type of empirical research undertaken in this study. In a broader sense, this study attempts to provide a greater understanding of the ethical decision making of financial planning participants within Australian financial services organisations and the effect that decision-making has on ethical behaviour. More specifically, this study investigates the influences of individual, situational and contextual factors on the ethical decision making of the two respondent groups.

Whilst transition to the new Commonwealth Financial Services Reform Regime was completed on 11 March 2004 (ASIC 2005a), it is argued in this thesis that this legislative regime has significant gaps which could also be filled by non-regulatory ethics based frameworks, which are derived from empirical research, such as this study.

For example, there is a lack of emphasis within the current regulatory framework on the ethical and professional obligations and decision making of the individual adviser (Wilkinson 2004; Bennetto 2005). Individual financial planners are not registered to give advice and most of the legal duties within the Act, such as the obligations to provide financial product advice in a fair, honest and efficient manner; or to manage, control or avoid conflict of interest, rest with the AFS Licensee (ASIC 2004a, 2004c), not the financial planner. Whilst some financial planners are members of a professional association, such as the FPA or the Certified Practising Accountants Australia Ltd (CPA Australia) and are thus bound by a Code of Ethics, it is not mandatory for advisers to be members of such associations (Beaman 2003).

In addition, there are significant areas of financial advice for which no overt legal framework exists, such as estate planning, debt management, gearing and strategic advice (Australian Government, the Treasury 2007).

There is also a current public perception that despite the new regulatory regime, financial planners are unethical and incompetent (ASIC 2003a), with their professional role being shaped by scams and scandals (Vessenes 1997; Bruining 2004; Brown 2003, Cooper 2008). The financial advisory market has also been the subject of widespread condemnation for continuing to rely on a system of pecuniary and non-pecuniary rewards for AFS Licensees and financial planners that are perceived as being associated with self interest (Wolthuizen 2003; ASIC 2004b; ASIC 2005f; Collins 2007b; Harris 2007; Brinsden 2008).

These perceptions have been exacerbated by a spate of corporate and financial scandals in Australia involving the sale of financial products by financial advisers and others, culminating in investor losses amounting to over $500 million dollars (the Australian Newspaper 2007; ASIC 2007b). These collapses have recently included the Westpoint Group of Companies (ASIC 2007d, 2007e; Collins 2007a), the Fincorp and Australian Capital Reserve collapses (ASIC 2007b; Egan, 2007) and the Storm Financial Group (Beaman 2009) and have occurred in circumstances where mainly retiree investors have lost their savings (Kachor 2008; Money Management Magazine 2009b).

These perceptions have coincided with another phenomenon. Financial planning, like other occupations such as architects (Matteson & Donovan 2002) and psychologists (Waring 2003), is attempting to become more professionalised and participants are moving towards new and important considerations of what it means, in an ethical sense, to be a financial planner (Wagner 2004; Walker 2003; FPA 2008a, 2008b). This is occurring on an international scale (Financial Planning Standards Board 2007; Certified Financial Planner™ Board of Standards 2008; Financial Services Authority 2007a).

The issues identified in the previous paragraphs provide a catalyst for this research. A greater understanding of how financial planning participants make ethical decisions and the factors that influence it may assist in the development and implementation of ethics frameworks within Australian financial services organisations to fill current gaps (Barber 1988; Miller 2002), reduce the risk of unethical conduct in the provision of financial advice and provide an ethical foundation for the new profession of financial planning.

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 (Smith, Armstrong & Francis 2007). The relationships financial planners have with their clients and the ethical framework that underpins them is therefore pivotal to the ability of the financial planner to provide a professional service and resolve these dilemmas effectively (Smith, J. 2006). This study has attempted to centre attention on the value that professional judgment and ethical decision-making can bring to the resolution of dilemmas facing financial planners in the provision of advice to clients.

In summary, this study is designed to enhance knowledge in particular areas of applied professional and business ethics as each relates to the ethical decision making of financial planners and compliance officers in the provision of financial advice to consumers. In doing so, the study aims to reduce the ethical, legal and regulatory risks associated with financial advice, using empirical research to better understand the mechanics of ethical decision making taking place in this environment.

1.3 Summary of the Main Themes

The introduction to this thesis has so far identified a number of societal and regulatory themes associated with financial planning that provided a catalyst for this research. These include the current perception that financial advice falls well below the legal and ethical standards that it should meet and that regulation of financial advice emphasises a legal compliance regulatory framework and licensing system which has significant gaps associated with the ethical obligations and individual accountability of financial planners in the provision of financial advice to consumers.

For the purposes of this study, these societal themes have been viewed through the prism of the primary research topic, namely the exploration of the ethical decision making of the two respondent groups.

There are several theoretical models in the literature that have been applied to explain the ethical behaviour of individuals (Dellaportas *et al.* 2005; Emanuel 1996; Loviscky, Trevino & Jacobs 2007; Northcott 1997), the ethical conduct (Trevino & Weaver 2003) and ethical decision-making of individuals (O'Fallon & Butterfield 2005) and the processes by which behaviour becomes normalised in organisations (Ashforth & Anand 2003).

Studies identified from the literature review have demonstrated that ethical reasoning and ethical behaviour are positively correlated (Abdolmohammadi & Sultan 2002), with ethical reasoning in some studies explaining 10%-15% of the variation in ethical action (Thoma 1994). One of the key assumptions arising from these findings for this study, is that a high level of ethical reasoning, as measured by Kohlberg's (1984) stages of cognitive development, is required to act according to high ethical standards (Rest 1984). The proposition that a high level of ethical reasoning among financial planners will be necessary for them to meet their professional obligations to clients is consistent with this premise.

Another theme emerging from the literature was that cognitive ethical reasoning can be assessed by empirical measurement. One of the most recognised and widely used measures of ethical reasoning is the Defining Issues Test ("DIT") as described by Rest and Narvaez (1994). This instrument is based on the cognitive developmental theory advanced by Kohlberg (1984). However, it incorporates more gradual shifts in the cognitive development schema and is better suited to an assessment of micro-morality issues in daily relationships (Trevino, Weaver & Reynolds 2006), as required for the purposes of this study.

This study adopted the approach taken by other researchers (Thorne 2000; Borenstein *et al.* 2006) to develop a profession specific measure of ethical reasoning using derivations of the original DIT and its revised version, the DIT 2 (Rest *et al.* 1999a). The profession specific financial planning instrument developed for the purposes of this study was called the Financial Advisory Issues Test (FAIT).

A further theme arising from the literature review was that ethical decision-making and ethical behaviour in a business context is predicted by a number of different constructs including individual, situational and contextual factors within an organisational environment (Hofmann, Hoezl & Kirchler 2008, Trevino 1986). This theme had resonance given this study was particularly interested in the dynamic between the individual respondents and the organisation for which they worked and in particular the cognitive ethical reasoning utilized by financial planners when engaging in decision-making and whether the ethical context of financial planning organisations raised competing motivational priorities or interests to act in a different way.

This theme is also consistent with the approach adopted by some researchers to move away from the theory that cognitive ethical reasoning is the primary construct determining ethical behaviour (Kelloway et al. 1999), towards a broader approach to the study of ethical decision-making within businesses (Wines & Hamilton 2003). The premise that individuals within an organisation do not operate in a vacuum and are influenced by other factors, including the organisational context was embraced by this study.

This study therefore conceptualised ethical decision making as the primary dependent variable which is influenced by three relational constructs, being the attributes of the individual, situational factors and contextual factors. This is consistent with the theories of Hofmann, Hoezl and Kirchler (2008) and others (Gephart, Harrison & Trevino 2007).

In terms of the individual attributes to be studied, based on Kohlberg's (1976) theory, this study conceptualised that the construct of cognitive ethical reasoning was a predictor of an individual's ethical decision-making and behaviour. Within this theme was the assumption that the higher the level of cognitive ethical reasoning held by a respondent, the greater their ability to make ethical decisions according to stage five and six of Kohlberg's six stages of cognitive moral development and the more effective those decisions would be (Thorne 2000; Borenstein *et al.* 2006). Cognitive ethical reasoning was primarily treated as a dependent variable for the purposes of the study.

Based on Bigel's (1998) research, this study also conceptualised that attributes pertaining to the individual, such as their age; experience; education; professional designation and gender may predict their level of cognitive ethical reasoning. The theory suggested that cognitive ethical reasoning would be strongly correlated with age and education in particular. These attributes were identified as independent variables which may influence the dependent variables.

Given the presence of multinational and global organisations in the financial services sector, the relationship between the size of the organisation and cognitive ethical reasoning was measured in this study, with size of organisation being treated as a situational factor based on the literature (Hitt 1990).

In terms of the contextual factors that influence individual ethical decision-making within organisations, four paradigms were identified from the Literature:

(a) ethical culture (Trevino 1986);
(b) ethical climate (Victor and Cullen 1988);
(c) leadership and role models (Van Gramberg and Menzies 2006); and
(d) remuneration and reward structures (Hegarty and Sims 1978).

The study measured whether there was a significant statistical relationship between the dependent variable of cognitive ethical reasoning and these independent variables.

The focus on these contextual characteristics arose because social psychology researchers, such as Milgram (1965) have demonstrated that individuals can be pressured by a strong corporate culture to be a "team member" and follow authority figures and peers even if the outcome is an unethical act.

It is the contention of this thesis that the ability of an AFS Licensee to influence the ethical context of its organisation may have a bearing on its ability to meet its legal obligations under the Act; to provide services in an efficient, fair and honest manner; to retain its reputation within the marketplace and to ensure quality advice is given to clients. An appropriate ethical context should also assist the AFS Licensee to embed a culture of compliance (Australian Compliance Institute 2005).

This thesis measured the ethical climate and culture of financial planning firms in Australia, using a version of the ethical climate survey of Victor and Cullen (1988) as modified and adapted by Trevino, Butterfield and McCabe (1998) in their study of the ethical context of organisations. The investigation of the relationship between ethical climate and ethical decision making was based on the theory that different ethical climate types can be a trigger for both ethical and unethical behaviour within organisations (Whitehead & Novak 2003; Trevino, Butterfield & McCabe 1998).

The study examined relationships between different ethical climate dimensions and other constructs, such as ethical leadership and employee commitment. To undertake these measurements, ethical leadership and employee commitment were converted to scales and then treated as independent variables. Ethical leadership and employee commitment were chosen for study because of the literature review findings that these variables also influence ethical decision-making within organisations (Van Gramberg & Menzies 2006).

The study also considered whether there were any statistically significant differences between financial planners and compliance officers in their perceptions of ethical climate dimensions within financial services organisations.

The literature review also identified that an individual's role within an organisation can affect their perceptions, attitudes and decision-making (Gephart, Harrison & Trevino 2007). These matters were of particular interest to this study, given the use of the two different respondent groups, both of whom play different roles within financial services organisations.

Remuneration source was chosen as an independent contextual variable for study due to the conflict between Bigel's (1998) research, which did not find a significant correlation between remuneration source and ethical reasoning amongst financial planners, and the anecdotal evidence noted in the literature review of this thesis that remuneration source and in particular the receipt of commission payments, was related to unethical conduct in financial planners. For the purposes of this study, remuneration source was categorised as salary, commissions, fees and a combination of fees and commissions.

The context of the study outlined in Chapter 3 of this thesis identifies numerous ethical issues concerned with the operation and structure of the financial planning industry that may influence the ethical behaviour of financial planning participants. This led to the decision that this study should incorporate in its methodology an empirical review of the primary types of unethical conduct by financial planners, so as to provide this thesis with a practical illustration of the decision-making of financial advisers and where that decision-making had failed to meet an acceptable standard.

A further decision was made to incorporate the perceptions of financial planning participants of the current ethical issues facing them in their roles. This provided an opportunity for comparative analysis of the relationship of those perceptions to the outcomes of the quantitative research undertaken in the study.

1.4 The Aims and Objectives of the Thesis

1.4.1 The aim of the thesis

The general aim of this research is to enhance the understanding of the ethical decision making of financial planning participants.

The primary objective of the research is linked to the main societal and regulatory themes outlined in section 1.3 of this Chapter. It is to identify the individual, situational and contextual factors that influence the ethical decision making of financial planners and financial services compliance officers in the provision of financial advice to consumers in Australia.

1.4.2 The general objectives of the research

Four general objectives were identified in order for the study to achieve its general aim, as follows:

1. To determine the primary types of unethical conduct of financial planners, in the provision of financial advice to consumers.

2. To test the perceptions of financial planners and compliance officers of the current ethical issues they face in their respective roles within financial services organisations.

3. To determine the individual attributes (individual demographic factors and cognitive ethical reasoning) that influence the ethical decision making of financial planning participants in the provision of financial advice to Australian consumers.

4. To determine the situational and contextual factors that influence the ethical decision making of financial planning participants.

1.4.3 The research objectives

Specific research objectives were also identified for the research, as follows:

1. To confirm in an Australian context Bigel's (1998) theory that the cognitive ethical reasoning of financial planners is positively correlated with their gender, age, education level, years of experience and the awarding of the CFP® professional designation.

2. To develop a profession specific test of cognitive ethical reasoning for financial planning.

3. To predict the relationships between individual, situational and contextual factors and the ethical decision-making of financial planners and compliance officers.

4. To measure the perceptions held by financial planners and compliance officers of the of the ethical climate of financial services organizations, using a modified version of the Trevino, Butterfield and McCabe (1998)ethical climate and culture survey.

5. To measure the perceptions held by financial planners and compliance officers of the systems and procedures within their financial services organizations that are related to ethical culture.

In order to achieve these research objectives, seven research questions were developed for the purposes of the study. These questions are developed further in the Conceptual framework outlined in Chapter 4 and introduced here.

Research Question 1

What are the primary types of unethical conduct exhibited by financial planners in the provision of financial advice to Australian consumers?

Research Question 2

What are the perceptions of financial planners and compliance officers of the current ethical issues facing them in their respective roles?

Research Question 3

Are there statistically significant relationships between individual attributes (gender, age, education attainment, the CFP® professional designation and years of experience) and the cognitive ethical reasoning of financial planners and compliance officers?

Research Question 4

Is there a statistically significant relationship between the size of the organisation and the cognitive ethical reasoning of the two respondent groups?

Research Question 5

Are there statistically significant relationships between the contextual factors of remuneration source and the role of the respondent with cognitive ethical reasoning?

Research Question 6

6A Is there a statistically significant relationship between perceptions of ethical culture within financial services organizations and cognitive ethical reasoning scores?

6B What are the systems and procedures currently in place within AFS Licensees that are related to ethical culture?

Research Question 7

7A Are there differences in perception of ethical climate between financial planners and compliance officers?

7B Are there statistically significant relationships between the ethical climate dimensions, cognitive ethical reasoning scores and ethical leadership?

These research questions were then operationalised for measurement through the development of nine hypotheses which are outlined in more detail in section 4.6 of Chapter 4.

1.5 The Significance of the Research

1.5.1 The field of interest

The primary academic field of interest for this thesis is applied ethics and in particular the measurement of ethical decision making and the factors that influence the decision making of financial planning participants within financial services organisations.

The field of interest from an industry perspective is the financial services industry and financial planning in particular. Given the statistics outlined in section 1.1 of this Chapter, which identified the amount of money invested by Australians in financial services markets and their reliance on financial advisers to ensure financial, economic and social prosperity, it seemed important to conduct a study that contributed to an understanding of the dynamics of ethical decision-making by professionals within the financial services industry and the issues that may be affecting that decision making.

As Wagner (2004) has articulated, financial activity and expert financial advice are an essential function for both individuals and society. A reputation for ethical conduct and ethical decision-making in financial planning is therefore crucial not only to achieve the confidence of clients and relational trust (Saparito, Chen & Sapienza 2004), but also to ensure that essential function is met.

The study makes a practical contribution to the current public policy debates on the regulatory model for the financial services industry and financial planners and its remuneration structures. The present study should also be valuable to financial planning practitioners in the following ways. First, it identifies the primary types of unethical conduct associated with financial planning advice and the perceptions of financial planning participants as to the current ethical issues influencing ethical decision-making in financial planning firms. This contribution is enhanced by a significant case study on the financial advice given to consumers to invest in the collapsed Westpoint Group of companies that led to significant investor losses.

Secondly, the study contributes to the development of continuing professional development programs in ethics and ethical decision-making for financial planners and the inclusion of ethical training programs in undergraduate degrees for financial planners.

Thirdly, the study assists financial services organisations in their understanding of the contextual factors that influence the ethical decision-making of their advisory divisions and lead to them more appropriately identifying and managing the ethical risks associated with the provision of financial advice to consumers.

The study has identified gaps in existing financial planning frameworks and suggests that to fill these gaps financial planning organisations must move away from the current focus on legal compliance frameworks and implement systems and procedures that ensure ethical decision-making and ethical context is consistent with the expectations of stakeholder groups.

In addition, the research should also contribute to the knowledge base on how Australian financial planners can fulfil their obligations as an emerging profession within the multi- national and commercial environment of an increasingly globalised financial services industry in the 21st century.

It is hoped above all that a primary contribution has been made to counter in a financial planning context, what Francis and Armstrong (2004) have argued are commonly held perceptions: that ethics is hard to implement; that it is irrelevant in the real world; that it is imprecise and difficult to apply.

1.5.2 The gaps in previous studies

The literature review provided significant empirical and theoretical support for this study. However, some gaps in knowledge in the study of ethical decision-making by financial planners and within financial services organizations were identified. This study has attempted to fill these gaps by adopting a mixed methods approach to the research design and methodology, utilising both quantitative and qualitative research methods in order to measure the variables and relationships to be tested and achieve the objectives of this thesis.

The study of ethical decision making of financial planning participants and the factors that influence it is a relatively under-researched area. For example, a review of previous studies of cognitive ethical reasoning across different professions and occupations (Thorne 2000; Borenstein *et al.* 2006; Spring 2004; Bebeau 2002; Loviscky, Trevino & Jacobs 2007) has revealed that the ethical reasoning of financial planners and compliance officers in an Australian context has not been addressed in the existing literature leading to a gap in knowledge in this area.

This study seems to be one of the first of its type conducted in Australia. Only financial planners in the United States of America seem to have been the subject of a previous study measuring levels of cognitive ethical reasoning and its correlates (Bigel 2000). This study replicates Bigel's (1998) study as it applies to the statistical relationships between the attributes of the individual decision maker and their cognitive ethical reasoning.

A series of Australian studies has examined the relationship between the professional commitment of financial planners with personality dimensions and perceived environmental uncertainty (Clayton *et al.* 2007) and the relationship between job satisfaction of financial planners and their age, gender, job tenure and motivation (Clayton, Lynch & Kerry 2007).

Deakin University (FPA 2007d) has also recently undertaken a study which analysed the commitment of certain professionals to their profession, including accountants and chartered accountants in Australia and New Zealand; and financial planners in Australia. A recent review of the literature has not revealed published findings of this study.

The research instrument used in that Deakin University study (FPA 2007d) incorporated case scenarios to identify levels of ethical reasoning among respondents and also included some questions on ethical climate and ethical culture. With permission, this study used one of the case scenarios from the Deakin University research questionnaire, so as to allow for the future linking of the two studies and to enable a comparison of results across them if required.

The aims of the recent Deakin University study and its predecessors (Clayton *et al.* 2007; Clayton, Lynch & Kerry 2007) differ from this study in numerous respects. First, this study also determined the primary types of unethical conduct by financial planners in 2006/07. Secondly, this study undertook an analysis of the individual, situational and contextual factors that may be influencing the ethical decision-making of compliance officers and financial planners. Thirdly, this study's research of the perceptions of the respondent groups of the ethical climate and ethical culture within financial planning firms in Australia and the current ethical issues faced by financial planners and compliance managers in their role, seems unique.

Another gap in knowledge identified was a profession specific instrument through which to measure the cognitive ethical reasoning of financial planning participants as it applied to the provision of financial advice to clients. This gap was filled by this study by the development of the FAIT instrument.

The factors that influence the ethical decision-making of financial planning participants in an organisational context did not appear to have been the subject of research. It is argued by Whitehead and Novak (2003) that contextual factors, such as the ethical climate and ethical culture of the AFS Licensee, have a significant role to play in positively or negatively influencing the ethical conduct of financial planners.

This study therefore investigated some of these hypothesised contextual determinants of ethical behaviour in financial planning organizations; so as to increase the understanding of these factors and their association with the ethical decision-making of financial planning participants.

Accordingly, as the purpose of this study was to fill research gaps in knowledge, this study measured the perceptions of respondents of the ethical culture and ethical climate of the AFS Licensees. In addition, it tested for the existence of statistical relationships between ethical climate and culture dimensions and other contextual factors such as remuneration source, role and ethical leadership. The existence of some of these relationships has been established for other occupations and professions (Deshpande 1996; Okpara 2002; Ede & Legoz 2002; Barnett & Vaicys 2000). The academic and industry literature review did not establish any empirical evidence to support the existence of these relationships in a financial planning context.

Further, whilst a study of court-based ASIC enforcement patterns during 1997 to 1999 was identified from the Literature review (Bird *et al.* 2003), an empirical analysis of the primary types of unethical conduct that financial planners engaged in, or the perceptions of financial planning participants of the types of issues they believed may be affecting their decision making was not revealed.

So as to fill these gaps in knowledge, to form a practical foundation for the development of the case scenarios in the FAIT instrument and to inform this thesis in relation to the factors influencing ethical decision-making of financial planning participants, this study undertook a quantitative analysis of the primary types of unethical conduct by financial planners during the period 2006 to 2007 and conducted a focus group of financial planning participants to gauge perceptions of current issues affecting decision making in the financial advisory sector.

1.5.3 The theoretical contribution made by the research to knowledge

There are two types of contribution made by this thesis. One contribution is to the existing academic knowledge base and the other is a practical contribution to numerous areas of public debate about financial planning advice and the effective provision of financial services. This section of the Chapter deals with the contribution to knowledge.

The study contributes to the existing academic knowledge base on ethical decision making and the individual, situational and contextual factors that influence it. In particular, it makes a significant contribution to knowledge related to the cognitive ethical reasoning of Australia financial planning participants and its relationship to intervening variables such as age, gender, education levels, experience, professional designation, role and remuneration structures.

The thesis also contributes to this area of academic knowledge through the development of the profession specific instrument to measure the cognitive ethical reasoning of financial planning participants; the FAIT instrument and the FAIT score. The FAIT score seemed to provide a number of advantages relevant to this study. First, it tended to be more parsimonious, easier to calculate and to use. Secondly, the FAIT score seemed to be more sensitive in relation to this particular test, to revealing information about the data that due to the small sample size for this study, both the P score and the N2 score seemed to struggle with.

A contribution has also been made to the knowledge associated with professional ethics. In particular it has identified some gaps in the ethical context of financial planning that would usually be associated with a traditional profession.

A further contribution has been made to the knowledge base related to business and management ethics, through the exploration of the contextual factors that affect ethical decision-making of participants within financial services organisations.

The thesis has enhanced knowledge in this area by generating baseline data of the attitudes and perceptions of financial planning participants to the ethical climate and culture within Australian financial services organisations and the systems and procedures used by those organisations to delineate ethical culture.

It has enhanced knowledge of the ethical climate and culture within Australian Financial Services organisations and the systems and procedures used by those organisations to assist with embedding ethical culture.

1.6 The Definitions That Apply to this Study

A Glossary of Defined Terms and a List of Abbreviated Terms used in this study have been provided at the front of the thesis.

Whilst the terms “financial planning” and “financial planner” have previously been defined in this Chapter, it is important at this stage of the thesis to define additionally some other key terms that are associated with the study of ethics and its related disciplines, so as to clarify the meaning attributed to them and their application to this research. These terms include:

- Ethics;
- Ethical principles;
- Ethical behaviour;
- Ethical Conduct
- Ethical decision making; and
- Ethical reasoning.

A general review of the literature has revealed that the term “ethics” and related concepts such as “morality” and “values” are often used interchangeably as if similar in meaning. Yet, it is argued in this thesis that ethics can be distinguished from morality.

The Collins Compact Australian Dictionary (2000) defines ethics as “a moral principle or set of moral values held by an individual or a group.” A “moral” is subsequently defined as the distinction between good and bad or right and wrong behaviour. This suggests that ethics is a group of moral principles or values of behaviour that accord with community or individual standards of right and wrong, or a choice between “good” and “evil” (Hofmann, Hoezl & Kirchler 2005). However, ethics is not always a choice between right and wrong or “moral and non moral choices” (Francis and Armstrong 2004).

To some researchers, like Kitchener (2000 p.3), morality refers to the human belief structure and ethics refers to the philosophical study and evaluation of that belief system. This is similar to Francis (1994) who described ethics as a highly explicit form of codified behaviour designed to produce particular ends and actions in accordance with particular value systems. He has described morals on the other hand as standards held by the community, often not in an explicitly articulated form.

Other researchers, such as Almond (1995), describe morality as judging what is good or right and ethics as the reasoning behind that judgement. This description is extended by Buller, Kohl and Anderson (1991, p.768), who defined ethics to include *'both the moral codes and values used in the reasoning process as well as the decisions and the behaviours that result from the process'*.

Guy (1990) has argued that ethics is a process of inquiry which requires the decision maker to consider facts in light of important values and morals, in the context of explicit forms of codified behaviour. This definition of ethics was adopted for the purposes of the study as it seemed to incorporate the numerous elements referred to by other researchers (Francis 2000; Kitchener 2000; Almond 1995) and distinguished the term "ethics" from "morals" as two different, yet related concepts (Longstaff 2000).

The term "ethical principles" must also be defined. For the purposes of this study, it means the values that categorise the domain of moral action (Lefkowitz 2003).

Ethical decision-making (Rest *et al.* 1997a) is further defined as the process a financial planner or compliance officer adopts when determining how to respond to a particular ethical dilemma.

For the purposes of this study the term "ethical conduct" means the conduct of respondents as expressed in the codified forms of professional conduct operating in the financial planning profession. Conversely, unethical conduct means conduct which is not consistent with those Codes.

The term "ethical behaviour" has been additionally defined as encompassing the ethical reasoning of the study's participants and the relationship between this reasoning and their conduct (de Casterle *et al.* 1998, Rest & Narvaez 1994). To complete the set, the term "ethical reasoning" means the cognitive reasoning adopted by a participant to the study in an attempt to resolve a dilemma (Borenstein *et al*. 2006).

1.7 The Scope of the Study

The research areas covered by the thesis are substantial. A study of the factors affecting ethical decision-making can be investigated from the view points of various disciplines such as ethical theory and applied ethics disciplines such as professional ethics, business ethics and management ethics. It also incorporates elements of organisational behaviour, social science and psychology.

In addition, to explain fully the context of this study, the literature associated with numerous other disciplines was reviewed, including the literature on corporate governance and stakeholder theory; the legal and professional standards that are currently associated with financial planning advice; the international approach to financial planning advice and the current anecdotal ethical issues within financial planning.

An empirical study such as this, cannot deal with all of the variables and possible combinations of relationships associated with ethical decision making that were identified from the literature. Rather, it is confined to an exploration of specific individual, situational and contextual factors that influence the ethical decision making of two respondent groups within financial planning organisations, namely financial planners and compliance officers.

The study concerns itself with measuring the level of cognitive ethical reasoning of financial planners in their role as members of an emerging profession. It also examines the level of cognitive ethical reasoning of compliance officers; in their role of monitoring and supervising the financial advice of financial planners given on behalf of AFS Licensees. The effect of other individual correlates such as age, gender, experience, remuneration source and education level were also measured, so as to replicate in an Australian context, Bigel's (1998) study on financial planners.

This study did not concern itself with other individual factors, such as religious beliefs, personal morality or values held by the respondents. Nor did it measure moral intensity (Hofmann Hoezl & Kirchler 2006) or the intentions and motivations of the respondents in decision making (Azjen 1991).

Further, it did not attempt to measure all of the contextual factors identified from the literature review as influencing ethical decision making, such as interaction with peers (Zey-Ferrell & Ferrell 1982) or authority figures (Lovisky, Trevino & Jacobs 2007). The study was confined to the measurement of ethical culture and ethical climate dimensions within financial services organisations and their relationship to other constructs such as ethical leadership, remuneration and role. It also attempted to identify some of the systems and procedures that these organisations have in place to assist with embedding ethical culture.

Further, this study did not examine the role of financial planning clients as investors and the ethical and moral reasoning they bring to investment decisions (Petrick & Quinn 1997). The investment behaviour of consumers is a study in itself. Nor did the study seek to explore whether ethical decision-making in financial planning advice extends to recommendations to clients to only invest in ethically or socially responsible companies or financial products.

This study is designed to enhance knowledge in the areas of applied professional and business ethics as each relates to ethical decision-making and the factors influencing it in the provision of financial advice to consumers of financial services.

In terms of the methodology, the research was conducted in five stages to ensure it was undertaken in a sequential manner. Stage one of the study comprised the literature review. Quantitative research methods were used in stage 2 of the research to review relevant decisions made by the three external decision makers, namely the Australian courts, ASIC and the Financial Ombudsman Service Ltd (FOS) in the years 2006 and 2007, to discern primary forms of unethical conduct by financial planning participants in the provision of financial advice. This stage included the collation and analysis of data related to the study's case study on financial advice given to consumers to invest in Westpoint.

Qualitative research methods were utilised to convene the focus group in stage three of the research. The purpose of the focus group was to present a richer and more complex description of the perceptions and attitudes of the study's participant groups to the current ethical issues facing them in their respective roles as financial planners and compliance officers and the factors that the participants believed may be influencing ethical decision-making in their organisations.

Stages two and three of the research were considered to be an integral part of the research design for a number of reasons. Given that this study measured the theoretical relationships between the ethical decision making of financial planning participants and numerous constructs (Abdolmohammadi & Sultan 2002), it was considered important to generate empirical data about these matters in their own right, so as to enhance understanding of the results from this study overall and for comparative analysis against the quantitative data collected from the main research instrument. In addition, data from stages two and three of the research design also instructed the development of the main questionnaire instrument, used in stage four of the project.

Stage four of the research comprised the development and pre-testing of the main research questionnaire. The purpose of the questionnaire was to collect quantitative data against which to measure the nine hypotheses posed by the thesis. Each of the four sections of the research instrument was based on instruments used in earlier studies in related contexts.

The four sections of the questionnaire included a demographic survey, based on Bigel's (1998) study in section one; a survey of the systems and procedures AFS Licensees may have in place to embed ethical culture, in section two of the questionnaire; an ethical climate and culture survey based on the research of Trevino, Butterfield and McCabe (1998) in section three and the FAIT instrument in section four of the questionnaire.

The fifth stage of the study involved the collection and analysis of the data from the responses to the main research questionnaire. In testing the nine hypotheses proposed by this study and to achieve the study's objectives, a number of different methods of data analysis were applied, including descriptive statistics, Pearson's product-moment correlation co-efficient, Spearman's correlation co-efficient, ordinary least squares (OLS) regressions and hierarchical regressions. Correlation and regression analysis were chosen as the primary methods of data analysis for the purposes of this study because they are based on linear method, depend on normality assumptions and do not test for causality (Hansen & Morrow 2003).

1.8 The Presentation of the Thesis

The study of ethical decision making in the Australian financial planning industry in this thesis is divided into eight different chapters.

The first chapter of this thesis has introduced the reader to the background of the study, the definitions used for the purposes of the study and the general and specific objectives of the research. The chapter has also considered the reasons for the research and its significance, both in terms of its practical contribution and its contribution to knowledge. The field of interest has been positioned and the scope of the study outlined.

The second chapter surveys a wide range of literature with a view to identifying attributes and constructs that are proposed as being critical to the study and its main themes. The literature reviewed considers the study of normative and applied ethics, as they apply to this thesis, including the disciplines of professional and business ethics. The literature associated with the delineation of ethical principles and values that are relevant to this study and the concepts of ethical decision making and ethical reasoning, as they apply to the research to be conducted, were also reviewed.

Chapter two also explores ethical decision-making within organisations and the role of management and leadership. This lays the foundation for a discussion of the contextual factors that affect ethical decision making, including the theories associated with ethical climate and ethical culture and their measurement and how the ethical context of an organization may be used to influence adviser behaviour and decision making.

Chapter three of the thesis considers the context in which the study takes place. It is divided into ten sections. The chapter commences with an explanation as to why a study on ethical decision making in financial planning was considered important. This is followed by a description of the current legal and ethical standards that apply to the provision of financial advice, in an Australian context, including whether financial planners are also in a fiduciary relationship with their clients and the circumstances in which that relationship may apply. The Australian financial planning environment is then contrasted with the international position.

The Chapter includes a discussion of the role of the financial services organisation in the provision of financial advice and the role that compliance officers play within financial services organisations in monitoring and supervising the legal and ethical behaviour of financial planners. The Chapter outlines the roles of ASIC as the regulator and Externally Approved Dispute Resolution Schemes, such as the FOS within the financial services sector.

Finally, the Chapter discusses some of the current professional and ethical issues within financial planning, including evidence of current unethical behaviour amongst financial planners; the impact of the collapse of Westpoint, conflicts of interest and industry remuneration structures and gearing and margin lending practices.

Chapter four develops the conceptual framework of the study and provides a summary of the key themes identified for research, together with the primary variables and constructs for study. The relationships and associations explored within the thesis are also outlined. Based on the theoretical framework outlined in the Chapter, a research model, including nine hypotheses, was developed so as to achieve the objectives of the study.

Chapter five presents the methodology. It outlines the research design, the method adopted to select and frame the two sample groups used in the research and the many and varied problems identified and overcome to ensure a sufficient number of responses were received to the main research questionnaire.

The chapter also discusses the five stages of the research model and the methodological approach adopted for each one, together with the outcomes of pre-testing and the reliability and validity of the different scales. Frequency and analysis within SPSS

12.0.1 software was utilised for the description of sample population parameters. The description includes the calculation of means, frequency distributions and percentage distributions to summarise data.

Chapter six presents the results of the different stages of the research. In this chapter the hypotheses are tested and the results are reported and discussed. The data analysis and empirical findings related to each of the seven research questions is then presented in turn.

The study's findings as they relate to each of the seven research questions are discussed in Chapter seven. A case study on the financial advice given to Australian consumers to invest in the promissory notes associated with Westpoint is also presented, together with the identification of gaps in existing financial planning ethics frameworks.

The thesis concludes in Chapter eight which highlights the main findings, the significance of the research and the conclusions of the study. This chapter also discusses the policy implications of the study, its limitations and recommendations for future research.

CHAPTER 2: LITERATURE REVIEW

The hard work of ethics goes far beyond learning the right thing to do. (Wines & Hamilton 2003, p. 48)

2.1 Introduction

The preceding chapter introduced the background to this thesis and its objectives, rationale and significance. This study explores the ethical decision making of financial planning participants within financial planning organisations in the provision of advice to Australian consumers. The theoretical basis for this research concerns the individual, situational and contextual factors that influence that decision-making.

In order to reveal the existing knowledge and give a more insightful view surrounding the constructs and the relationships to be studied, a review of the literature was conducted. This Chapter presents that review and discusses relevant knowledge so as to identify the research gaps.

As this thesis concerns the study of ethics, the literature related to the different ethical theories that apply to the study are presented at the beginning of this Chapter. This is followed by an examination of the applicable ethical principles and values, which are then defined for the purposes of the study. The differences between normative and applied ethics and how each has application to this thesis, including the links between this research and professional and business ethics doctrines is also examined.

This Chapter then reviews the literature associated with ethical decision making and examines the theoretical relationship between ethical decision making, ethical reasoning and ethical behaviour.

The review of the literature identifies a wide range of attributes and constructs that are proposed as being relevant to the study of ethical decision making by individuals in an organisational context. These constructs and the studies that have measured their influence on ethical decision making are also considered in this Chapter.

In relation to the individual factors affecting ethical decision making, the construct of cognitive ethical reasoning and theories corresponding to the relationship between that construct and other individual attributes such as age, gender, experience and education are critically reviewed. The Chapter continues with an examination of the research conducted into the situational factors that influence ethical decision making, such as the impact of organisational size.

This is followed by a review of the literature associated with the contextual factors that influence the ethical decision making of individuals within organisations, including an examination of the constructs, ethical climate and ethical culture.

In addition, other constructs to be studied, namely remuneration and reward structures, organisational role and ethical leadership are also discussed. Themes corresponding to the relationships among these constructs are also critically reviewed. This discussion also provides a context for the inclusion of financial services compliance officers as respondents to this study, in addition to financial planners.

1.9 The Study of Ethics

2.2.1 Ethics in theory

To undertake a study with ethical themes required a working definition of the term "ethics' that could be applied to this research. As outlined in Chapter one, for the purposes of this study, ethics is described as a process of inquiry which requires the decision maker to consider facts in light of important values and morals, in the context of explicit forms of codified behaviour.

It is accepted that normative ethical theory offers little assistance to this study in understanding the complex processes by which financial planning practitioners engage in ethical decision making. However, it does provide guidance to the resolution of ethical dilemmas and allows a broader understanding of the theoretical concepts and constructs studied in this thesis.

There are numerous theories relating to the study of ethics, usually divided into two main categories, namely theoretical ethics (normative ethics or meta-ethics) and applied ethics. Both categories are relevant to this study, although the application of ethics to professional and business contexts is of particular relevance.

Theoretical ethics concerns the study of ethical language and its use and conventions and the logic of justifying moral decisions (Kitchener 2000). In contrast, Almond (1995) contends that applied ethics involves the use of principles and insights from normative ethics and meta-ethics to resolve specific moral issues and problematic cases. For the purposes of this thesis, applied ethics also includes the study and evaluation of moral beliefs and actions within a given professional or business setting. That is: the study of how people actually make ethical decisions; how people ought to act towards each other and the development of rules of justification for behaviour (Kitchener 2000).

Applied ethical theory is the main area of study in this dissertation. However, applied ethics must be underpinned by normative ethical theory in order to provide context and foundation (Almond 1995).

To ensure individuals can choose between moral options, different cultures have developed rules or frameworks to be applied (Hofstede 1980, Hofstede & Bond 1998). There are a number of these ethical frameworks that inform this thesis' primary research area of ethical decision-making. Appendix A contains a Glossary of some of the numerous ethical and philosophical terms, concepts or frameworks developed in the literature. Some have more resonance than others for this particular study. Those relevant ethical theories are captured in Table 2.1 below and fall into three broad categories: deontological, teleological and virtue ethics.

Deontological actions are a form of rules based ethics and stem from the 18th century writings of Kant (1959), who emphasised that an individual has a duty to respect the legitimate claims or needs of others when making decisions (Simmerling *et al.* 2006). To Francis (2000), deontology is manifested in the belief that there are certain duties and rules which should be known and followed in life and are seen to be worthy in their own right. These are followed without reference to the situation or the inclination of the individual. For example, in a financial planning context, a financial planner has a duty to put the client first and act in their interests (FPA 2008a, 2008b).

Table 2.1: The different ethical philosophies relevant to this thesis

Philosophy	Description
Deontology	Focuses on the preservation of individual rights and on the motives, intentions and values associated with a particular behaviour or that guide our choices, no matter their consequences. This is based on the premise that individuals have certain absolute rights which must be respected.
Teleology	Stipulates that acts are morally right or acceptable if they produce some desired result, such as the realisation of self interest or utility.
Virtue Ethics	Assumes that what is ethical in a given situation can be determined according to a set of constants that do not change in response to dynamic cultural norms, rules or other people. Objective questions are posed such as: what would a person of "good" moral character deem appropriate in this situation?
Egoism	Defines right or acceptable actions as those that maximize a particular person's self interest as defined by that individual. In an ethical decision-making situation an egoist will choose an alternative whose consequences contribute most to their self interest.
Utilitarianism	Defines right or acceptable actions as those that maximize total utility or the greatest good for the greatest number of people. Often involves an analysis of the costs and benefits to all parties before a decision is made. Utilitarianism affirms that what is important about human behaviour is the outcome or results of the behaviour and not the intention of the person when he or she acts.
Justice	Evaluates ethicalness on the basis of fairness but has many different forms. For example, distributive justice is based on ensuring that outcomes or results are spread evenly; procedural justice focuses on the processes and activities that produce the outcomes or results and interactional justice evaluates the communication process involved.
Relativism	Evaluates ethical actions subjectively on the basis of individual and group experiences. Relativists define ethical standards using themselves or the people around them as a base and attempt to determine a consensus reached on the issue in question.

***Source*: Ferrell, Fraedrich and Ferrell (2002 p. 57).**

In contrast to deontology, teleology stipulates that a person's acts are morally right or acceptable if they produce some desired result or greater good, such as the realisation of self interest or utility (Ferrell, Fraedrich & Ferrell 2002).

Utilitarianism, a teleological theory, seeks to maximise the greatest good for the greatest number of people. This doctrine has its origins in the 1st century writings of Plato (Shultz & Brender-Ilan 2004) and the 19th century writings of Bentham (1969) and John Stuart Mill (Mill, Bentham & Ryan 1987). Mill (Mill, Bentham & Ryan 1987) has proposed that utilitarianism is based on the principle that actions are right if they tend to promote happiness and wrong if they tend to produce pain. Morality is therefore based on the consequences of the person's actions and its effect on society as a whole (Shultz & Brender-Ilan 2004). This theory suggests that decisions made in a financial planning context should take into account the greatest good for the greatest number of stakeholders.

Virtue ethics is usually associated with Aristotle (Shultz & Brender-Ilan 2004) and has been described by Van Gramberg and Menzies (2006) as a system of decision making that can be achieved both by following rules (deontology) as well as by seeking to attain the greater good (teleology). Virtue ethics means choosing a course of action that ensures that a person has exhibited good character or is a good person.

Egoism is another ethical theory which is relevant to this study. However in contrast to virtue ethics, this theory is depicted in acceptable actions that maximize the person's self interest as defined by that individual and where moral rules are irrelevant (Shultz & Brender Ilan 2004). In an ethical decision-making situation therefore, an egoist will choose the alternative where the outcome contributes most to their self interest (Ferrell, Fraedrich & Ferrell 2002). Ethical egoists will consider other people's interests only when it suits them, such as to avoid punishment or ostracism (Beauchamp & Baine 2004; Van Gramberg & Menzies 2006).

In the context of this study, it is argued that ethical egoism may be associated with current financial planning remuneration sources and in particular payments made to financial planners in circumstances where the sale of financial products comes before the interests of the client. This theory is also relevant to arguments raised in Chapter 3 about whether the only responsibility of a business is to maximise profit in the interests of shareholders, which is a form of ethical egoism (Northcott 1997) or whether responsibility extends to a consideration of other stakeholders and society as a whole, which is a form of utilitarianism.

Justice is based on Rawls (1971) theory and Kant's (1959) principles of respect for each person's right to be treated fairly and equally (Simmerling *et al.* 2006). There are many concepts of justice, including procedural justice; formal justice; corrective justice; restorative justice; interactional justice and distributive justice (Ferrell, Fraedrich & Ferrell 2002). Procedural, distributive and interactional justice as concepts, are described in Table 2.1 above.

It is important at this stage to distinguish for the purposes of this study between ethics and the law, given the overlap between legal, professional and ethical obligations associated with financial planning and the provision of financial services advice in Australia. Ethics and the law are different. Coady and Sampford (1993) have argued that the law is frequently concerned with setting a minimum standard of behaviour that may or may not directly derive from moral responsibilities. Some laws however may be evaluated as having a just or ethical intent and in this context there is sometimes an overlap with ethics (Kitchener 2000).

In this study it is argued that the normative ethical theories that apply to this thesis provide guidance to the ethical decision making of the study's respondents and allow a broader understanding of the theoretical concepts and constructs studied in this thesis. The next section of this chapter will examine the ethical values or principles that individuals and communities follow in guiding their actions and behaviours.

2.2.2 Ethical principles and values

The Collins Compact Australian Dictionary (2000) has defined the term "principle" as a moral rule guiding personal conduct, a basic or general truth.

Hitt (1990) has suggested that values are the long term beliefs or principles held by a person, that guide their decision making and that determine whether one particular course of conduct is preferable to another course of conduct. These beliefs or principles are fundamentally strongly held, even though they may change over time in some respects.

Francis (2000) has described values as the beliefs and principles individuals use to guide their actions, behaviours, and judgments of what is right and wrong and the selection of the social goals or ends that are desirable. This definition has therefore been adopted for the purposes of this thesis.

Velasquez, Andre and Meyer (2005) have distinguished between two groups of values. One group is terminal values, which define the outcomes towards which individuals strive, such as wisdom, security and accomplishment. The second group is instrumental values which provide the means to achieve those outcomes, such as courage, honesty, obedience and responsibility. Francis and Armstrong (2004) go further to distinguish between positive values, such as truthfulness and negative values, such as greed.

Smith (2002) and Guy (1990) are just two researchers who have argued that there are some high level principles that shape the ethical values of most individuals and groups. These principles as identified by Smith (2002) and Guy (1990) are outlined in Table 2.2 below. The principles represent instrumental values, such as justice and fairness and terminal values; such as honesty (Francis & Armstrong 2004).

Some argue that ethical principles should be followed without exception or without regard for circumstances. For example, Kitchener (2000) has argued that, if being honest is an absolute principle, then it ought to be followed even if it would mean the death of an innocent person. Others believe that the principles should be applied relative to the situation faced. These arguments link back to the different ethical theories outlined in the previous section of this chapter.

In this study it is argued that there are numerous ethical principles and values that apply to the decision-making associated with financial planning advice. The ethical principles outlined in this section were also used in stage one of the research undertaken in this study to determine the primary types of unethical conduct currently engaged in by financial planning participants.

Table 2.2: Ten core ethical principles to guide decision making.

No.	Guy (1990)	Smith (2002)	Combined Definition
1		*Justice*	Considers what is right, fair or just in any social arrangement.
2	*Honesty*	*Honesty*	To be truthful and not deceiving or distorting.
3	*Accountability*	*Personal Responsibility and Accountability*	To accept the consequences of one's actions and accept responsibility for one's decisions. This includes setting an example for others and avoiding the appearance of impropriety.
4	*Promise Keeping*		To keep one's commitments. Promises and agreements to stakeholders create expectations and obligations that must be met.
5	*Pursuit of Excellence*		Being diligent, industrious and well prepared (commonly called exercising "due care and skill").
6	*Loyalty*	*Fidelity or Loyalty*	Being faithful and loyal to those with whom the person has dealings.
7	*Fairness*	*Fairness*	This requires impartiality, intellectual honesty and disclosure of conflicts of interest. It contemplates treating others the same way that the person would want to be treated.
8	*Integrity*	*Integrity*	Judgment should be exercised with the objective of improving a situation. If the harm outweighs the good, then prudence dictates a return to the status quo. This is often referred to as the principle of do no harm.
9	*Responsible Citizenship*		A person's actions should accord to societal values and he/she should apply appropriate standards when exercising discretionary judgement.
10	*Respect for others*	*Respect for others*	There is an obligation to act with dignity, respect and courtesy in dealing with all stakeholders. A person should also be prompt and decent whilst recognising each person's rights.

***Sources*: Guy (1990, pp. 14-17); Smith (2002, pp. 1-4).**

2.2.3 Ethics in application: The role of professional and business ethics

This section of the chapter considers the application of ethics to the practice of financial planning. It also discusses the doctrines of professional and business ethics and the exercise of judgment by an individual professional within an organizational context.

Behavioural ethics has been described by Trevino, Weaver and Reynolds (2006) as being concerned with the explanation of individual behavior that is subjected to, or judged according to, generally accepted moral norms of behavior and that occurs in the context of larger social prescriptions.

Similarly, Martin (2000) has described professional ethics as consisting of the moral requirements attached to a profession and imposed on all of its members. According to Townsend (2003), the primary aim of professional ethics should be to motivate professionals to not only avoid evil in their decision making, but to identify and do good when dealing with the often perplexing dilemmas they frequently face.

Applied to this study therefore, the term “professional ethics” concerns the ethical issues that arise because of the specialist knowledge that a financial planner attains, and how the use of this knowledge should be applied, within the ethical boundaries set for the profession, in the provision of services to clients. In support of this definition, the test of professional ethics therefore is not of satisfying one’s personal conscience or motives, but of acting in ways that are consistent with the duties entrusted to the professional role (Preston 1996).

Extending this definition, Dal Pont (2003) has contended that a key element of being a member of a profession is the exercise of discretionary judgement when making decisions, or the use of “professional judgment”. This is in part because the value and meaning of the information exchanged through familiar roles, norms and internal systems is influenced by the dynamic interactions among the broader ensemble of stakeholders, not just by rules or standards set by members of a profession.

This notion of professional judgment is further explored in section 3.4 of Chapter 3 and is of significant relevance to this thesis because financial planners engage in discretionary decision-making every day, including in the provision of advice to clients.

The concept of a profession by definition implies infinite levels of ethical complexity and ambiguity in this decision-making (Francis 1994). Further, the consequences of the decisions made and the impact on clients can be significant. As no two ethical dilemmas faced in the provision of advice to clients will be exactly the same, it is argued in this thesis that financial planners need to be flexible and creative in terms of their decision-making processes and in their application of professional judgement when resolving dilemmas.

As stated by Davis (2002 p.44), "professional ethics is never just business ethics". Davis (2002) and Lagan (2000) have defined business ethics to mean the discussion of the moral obligations of corporations and the standard of conduct society should hold such entities to. In Lagan's (2000) view, this includes the values that shape organisational behaviour towards fellow employees and other stakeholders, such as customers, suppliers and competitors.

In contrast, Ferrell, Fraedrich and Ferrell (2002) have argued that the study of business ethics is not about moralizing about what should or should not be done by an organisation in a particular situation, but rather about systematically linking the concepts of ethical responsibility and decision-making within organisations.

Using the notion of business as moral agent, researchers such as Preston (1996) and Solomon (1993) have split business ethics into two levels:

(a) Micro level – including concepts and values that determine individual responsibilities and role behaviour within the organisation such as what makes a good business person; diligence and service; the ethics of intra-organisational relationships; respectful treatment of customers; and

(b) Macro level – including concepts such as the moral duties of companies with respect to society; their obligation to act lawfully; their civic or social responsibility and the role of business in society as a whole; and the principles and policies that govern the overall economic system of distribution and reward.

This study is more concerned with decision making at the micro level.

Globally, businesses are working together to establish and mandate minimum common standards of acceptable behaviour at both the macro and micro levels described by Preston (1996) and Solomon (1993). These include initiatives described by Petrick & Quinn (1997) such as the Ethical Trading Initiative and the development of a global code of ethics such as the Caux Round Table Principles for Business. These initiatives are based on two ethical ideals: kyosei (living and working together for the common good) and human dignity (the value of each person as an end, not a means) and highlight the common ethical concerns that exist for global commerce. These initiatives are linked to this study given the number of financial services organisations within Australia that are global or multi-national corporations (Ferrell, Fraedrich and Ferrell 2002).

Consistent with the above discussion, the present study conceptualises professional ethics as the ethical issues that arise because of the specialist knowledge that a financial planner attains, and how the use of this knowledge should be applied to do good, within the ethical boundaries set for the profession, in the provision of services to clients. In addition, business ethics is conceptualised as the systematic linking of corporate ethical responsibility and decision making within financial planning organisations, with a particular emphasis on decision-making at the micro level.

2.3 Theories Associated with Ethical Decision Making

This section of the Chapter identifies the key theories associated with ethical decision-making and its predictors and the links between ethical decision- making, ethical conduct and ethical behaviour. These theories, as they relate to the individual, situational and contextual factors that influence ethical decision-making, will then be examined in more detail in subsequent sections of this Chapter.

There are several theoretical models in the literature that have been applied to explain the ethical behaviour of individuals (Dellaportas *et al.* 2005; Emanuel 1996; Loviscky, Trevino & Jacobs 2007; Northcott 1997); the ethical conduct (Trevino & Weaver 2003) and ethical decision making of individuals (Trevino 1986, O'Fallon & Butterfield 2005); and the processes by which behaviour becomes normalised in organisations (Ashforth & Anand 2003).

Rest's (1984) four component analysis is one of the more frequently used frameworks to outline the research associated with ethical decision-making and behaviour. Rest (1984) observed that there were four interrelated components that influenced individual ethical behaviour, being moral awareness, moral judgment, moral motivation and moral behaviour. These components have been re-articulated by Dellaportas *et al*. (2005) and Winston and Saunders (1998) as four components of a decision-making process:

Ethical sensitivity – to identify or acknowledge an ethical problem exists;
Ethical priorities – to appreciate values and priorities through an understanding of principles, rules, norms and theories that may apply to the situation rather than competing priorities or preferences;
Ethical judgment – to develop their reasoning and judgment so as to evaluate a resolution of the dilemma in accordance with the most ethical choice; and
Ethical courage – to develop the strength of character to act upon such decisions and work through the challenges and frustrations inevitably connected with ethical decision-making.

According to Rest (1984), all four components in this decision-making process must be present to result in ethical behaviour.

Research related to ethical awareness or ethical sensitivity has focussed on the individual's ability to recognise that a particular situation has ethical content. This research has included studies in marketing (Hunt & Vitell 1986; Sparks & Hunt 1998); accounting (Yetmar & Eastman 2000) and dentistry (Bebeau 1994). Generally speaking this research has found that women tend to have greater skill at identifying ethical issues and that training and experience can improve the ethical sensitivity of individuals (Trevino, Weaver & Reynolds 2006).

Another stream of research has considered how the context in which ethical decisions are made may shape ethical awareness. This stream presumes that the individual (and their characteristics) is just one of the factors that can influence the ethical decision making process and ethical awareness in particular. Jones' (1991) issue contingent model of ethical decision making in organisations is an example of this research and was based on Rest's (1984) four stage model. Jones (1991) identified six dimensions of issue intensity, a situational factor influencing ethical decision making. The six dimensions included the magnitude of the consequences; the concentration of the effect; the probability the effect would occur; temporal immediacy; social consensus and proximity (Trevino, Weaver & Reynolds 2006).

It has been claimed that Jones' (1991) issue contingent model provides the most comprehensive model of ethical decision-making in business (Hofmann, Hoelzl & Kirchler 2008). The model has been applied to studies examining business decisions that have led to fraud (Carlson, Kacmar & Wadsworth 2002; May & Pauli 2002; Weber 1996).

Ethical awareness and ethical judgment are generally considered to be precursors to ethical intentions and behaviour (Trevino & Youngblood 1990). Ethical judgment is linked to the level of ethical reasoning of the individual decision maker, which in turn is linked to ethical behaviour (Trevino & Youngblood 1990). It is suggested by the literature that ethical reasoning and ethical behaviour have a positive correlation (Abdolmohammadi & Sultan 2002), with ethical reasoning in some studies explaining 10%-15% of the variation in ethical action (Thoma, 1994).

Gephart, Harrison and Trevino (2007) found a negative relationship between cognitive moral development and unethical intention and unethical behaviour in their meta-analysis of empirical research on the individual, situational and contextual factors that impact ethical decision-making. They concluded that cognitive moral development was the strongest dispositional predictor of unethical behaviour.

This was consistent with the work of researchers such as Kohlberg (1976) who concluded that an individual's cognitive moral development was a predictor of the ethical reasoning that would be applied by the individual to the resolution of an ethical dilemma. Kohlberg's (1969) cognitive moral development theory is one of the most prominent theories of ethical judgment. It is critically reviewed in the next section of the Chapter, as are the correlates of ethical judgment, such as age, education, gender and experience.

This study did not incorporate into its research design, the theory of planned behaviour to predict the intentions and motivations of the respondents which may also have influenced their behaviour (Ajzen 1985). Other factors, including time, whether in terms of sequence of events or in time pressures working against value judgments, were also not measured (Francis & Armstrong 2006).

Many theories have also examined the relationship between ethical behaviour and contextual factors in the transition from moral awareness to moral intentions and then to moral behaviour. Hofmann, Hoelzl and Kirchler (2005) have argued that for decisions made by individuals in a business context, Rest's (1984) four stage model is influenced by two factors: moral intensity; being the strength with which the moral issue influences the decision-making process and contextual or organisational factors (Singhapakadi, Vitell & Franke 1999).

These contextual constructs include ethical culture (Trevino 1992) and ethical climate (Victor & Cullen 1988, 2001); interaction with peers (Zey-Ferrell & Ferrell 1982); significant others (Ferrell & Gresham 1985) and the role of authority figures such as managers and their ethical leadership (Van Gramberg & Menzies 2006; Loviscky Trevino & Jacobs 2007). To these constructs, remuneration and reward structures can be added (Hegarty & Sims 1978; Trevino & Youngblood 1990). There are also issue related contextual factors that can apply such as the magnitude of the consequences (Trevino, Weaver & Reynolds 2006).

Rest and Narvaez (1994) and Winston and Saunders (1998) have maintained that additional elements must be added to professional ethical decision-making models, including the ability to realise when professional ethical duties or principles, conflict with minimising legal risks or other competing interests. However, this element seems similar to Rest's (1984) notion of Ethical Priorities. Wines and Hamilton (2003) have also extended these factors to include the opportunity to take right or wrong action.

The literature review has identified that ethical decision-making and ethical behaviour in business is influenced by numerous individual, situational and contextual factors. The individual factors that were measured in this study are discussed in more detail in sections 2.4 and 2.5 of this chapter. This is followed by consideration of the situational and contextual factors relevant to the study in sections 2.6 and 2.7.

Consistent with the above discussion, some assumptions were made for the purposes of the present study. The first assumption was that whilst numerous studies have confirmed that a relationship between cognitive development and ethical reasoning exists (Loviscky, Trevino & Jacobs 2007; Rest *et al*. 1997), individual cognitive development is not the only contributor to ethical decision-making, the predictors of both ethical reasoning and decision making being more complex and less direct than researchers such as Kohlberg assumed (Suzuki & Knudson 1989; Lefkowitz 2003).

Accordingly, this study moved away from a sole focus on individual values (Fritzche 1991) or individual cognitive development as the primary construct influencing individual decision-making (Ferrell & Gresham 1985; Kelloway *et al.* 1999), whilst recognising the consensus that cognitive moral development is still a valuable predictor of ethical behaviours (Ishida 2006).

The study accordingly adopted a broader multi-dimensional approach to the research model to include situational and contextual factors as additional predictors of ethical decision making. This broader approach has allowed for a more comprehensive understanding of ethical decision making within financial services organisations, as argued by Wines and Hamilton (2003).

This view was enhanced by studies that have shown some individuals do not maintain the same moral philosophy at both work and home (Fraedrich & Ferrell 1992). Lower level managers and employees are also less likely to believe that their organisations are managed ethically and are more likely to report that their personal values are compromised to conform with organisational expectations (Lefkowitz 2003), although subordinates with higher cognitive moral development will be less affected by their supervisors' influence (Wimbush 1999).

The second assumption made was that the study's respondents were rational decision makers. Some models of efficient financial markets are based on the notion of the rational investor and rational adviser, that make evidence based decisions (Godoi *et al*.

2005). Theories of ethical decision making, such as multiple attribute utility theory also assume a rational decision maker (Baron 2000). This theory has been used to test the moral considerations that have influenced the investment decisions of individuals (Hofmann, Hoelzl & Kirchler 2005).

This assumption was made despite evidence cited by Prentice (2003) to suggest that individuals are not always rational in their decision-making; are influenced by numerous personal and professional biases and make mistakes in judgement.

It is recognised that poor ethical decisions not only occur because of failures of ethical standards or a lack of cognitive development of ethical reasoning. It can also be because the decision maker does not have a system or process in place to resolve the ethical dilemma once faced (Smith 2002). It is argued by some authors such as Guy (1990), Northcott (1993), Lagenderfer and Rockness (1990) and Rion (1990) that ethical decision making requires individuals to rely on decision-making frameworks to assist with deliberations (Velasquez, Andre & Meyer 2005) and 'fine tune and shape appropriate responses' (Koocher & Keith – Spiegel 1998, p.12) when resolving an ethical dilemma. However, whether or not the respondents to this study applied any particular decision-making framework did not form part of the conceptual model for this study.

Further, this study was restricted to the ethical decision making of financial planners and compliance officers. It did not explore the constructs influencing the decision-making of financial planning clients; the moral considerations that may influence their investment decisions (Hofmann, Hoelzl & Kirchler 2005) or the rise in socially responsible investment, which is defined as investment in companies or funds that comply with specific and positive ethical criteria only (Lewis *et al*. 1998).

1.10 Individual Factors Affecting Ethical Decision Making

2.4.1 Measuring cognitive ethical reasoning

This section of the Chapter considers the literature associated with the individual factors affecting ethical decision-making that were identified in section 2.3. The measurement of the construct cognitive ethical reasoning and its correlates, namely age, gender, education level, experience and professional designation are also discussed.

Historically, philosophy has described moral and ethical judgment as conscious and deliberate decision-making (Narvaez & Bock 2002). As discussed in section 2.3 of this Chapter, Kohlberg's (1969) cognitive moral development theory is one of the most prominent theories of ethical judgment.

Kohlberg (1976) has argued that the development of ethical judgment goes through phases that represent more heightened and significant levels of ethical reasoning. Kohlberg (1969) identified six stages across three levels of ethical development: the pre-conventional, the conventional and the post conventional. These six stages were based on the premise that ethical maturity evolves and can be measured by the different ways in which people organize and structure their social and moral world and associated experiences, as measured by the level of individual cognitive development of the participant (Loviscky, Trevino & Jacobs 2007).

According to Kohlberg's (1976) theory, an individual at the pre-conventional level does not yet understand, conform to or uphold conventional or societal rules and expectations. A person at this level may see no value in the rules themselves, except as indicators of what behaviour has adverse consequences and what does not (de Casterle, Rulens & Gastrams 1998). In this context, the individual has an egoistic need for self preservation, disregarding other considerations in their decision making.

At the conventional level the individual moves from an egotistical perspective to a cognitive recognition of the value of a group, the group's practices and rules. The individual has started to develop, conform to and pay heed to the rules and expectations of the group eventually acquiring what Bigel (2000) described as more socially determined thinking. Behaviour and actions are considered in terms of what is acceptable to the group regardless of personal consequences. The group itself and a feeling of belonging are what is valued.

The post conventional level involves a person whose acceptance of societal rules and norms is based on their understanding and formulation of the general moral principles that underpin the rule and not because it is a rule in itself. Society's views and rules are questioned and there is a quantum lift in moral understanding where the person thinks independently, developing an impartial point of view and using self justified moral principles (Abdolmohammadi & Baker 2007). In the final stage, ethical reasoning represents principled thinking. At this level, ethical principles such as justice, reciprocity, respect for others and human rights, as described in Table 2.2 above, are seen as universal and consistent (Shaw 2003).

Individuals whose thinking is most highly dominated by teleological or deontological processes as outlined in Table 2.1 above are usually considered to be the most highly developed in an ethical sense, consistent with Kohlberg's final stage (Shaw 2003).

In summary therefore, at stage one of Kohlberg's (1969) theory, ethical reasoning is motivated by a desire to avoid punishment. By stage six, reasoning is motivated by the individual's own conscience and an ability to identify and resolve dilemmas in a wider context according to self chosen ethical principles.

Studies have shown that few individuals progress to the post conventional level (Weber & Green 1991), with the majority of adults at the conventional level, motivated by either a need to avoid isolation from a group or to abide by governing laws (Kelloway *et al.* 1999). Rest *et al.* (1999b) has postulated that fewer than 20% of American adults reach stages five or six.

Trevino, Weaver and Reynolds (2006) have argued that this means there is a great scope for organisations to influence acceptable and unacceptable behaviour through the use of organisational values, leadership, reward systems and the ethical context of the organisation.

Table 2.3 below outlines the six stages of moral development in more detail.

Table 2.3 – The six stages of moral development according to Kohlberg

Stage of Development	Description	What is considered to be right
Level One – Pre-conventional	Stage One – Obedience and punishment orientation	Sticking to rules to avoid physical punishment. Obedience for its own sake.
	Stage Two – Instrumental purpose and exchange	Following the rules only when it is in the individual's immediate interests. Right is an equal exchange, a fair deal.
Level Two – Conventional	Stage Three – Interpersonal accord, conformity, mutual expectations	Stereotypical "good" behaviour. Living up to what is expected by people close to you.
	Stage Four – Social accord and system maintenance	Fulfilling duties and obligations to which the individual has agreed. Upholding laws except in extreme cases where they conflict with fixed social duties. Contributing to the society and the group.
Level Three – Principled	Stage Five – Social contract and individual rights	Being aware that people hold a variety of values and that rules are relative to the group. Upholding rules because they are part of a social contract. Upholding non relative values and rights regardless of majority opinion.
	Stage Six – Universal ethical principles	Following self-chosen ethical principles. When laws violate these principles, to act in accord with the principles.

Source: **Trevino (1986, p.605).**

Criticisms of Kohlberg's work have included arguments that the work is based on western ideologies and is ethnocentric (Langford 1995); that culture may play a role in ethical reasoning (Hofstede & Hofstede 2002), that the work fails to properly address social experience and care and responsibility within personal relationships (Gilligan 1982) and that situational and contextual factors may also be affecting the ability of an individual to act and reason in a particular situation (Loviscky, Trevino & Jacobs 2007).

Kohlberg (1981) developed one of the traditional moral judgment measures, called the Moral Judgment Interview (MJI) to estimate the highest ethical development stage reached by a respondent. This measure involved the coding, scoring and assessment of responses to hypothetical ethical dilemmas posed to respondents in a semi-structured interview (Thorne 2000). The measure has been criticised for being time consuming to administer and score, making its use in wide scale research impractical (Loviscky, Trevino & Jacobs 2007).

However, the general appeal of cognitive moral development instruments stems from their ability to capture efficiently individual differences in terms of attitudes towards ethical behaviour (Ishida 2006). Accordingly, numerous instruments have been subsequently developed to measure this construct.

One of the most recognised and widely used measures of ethical reasoning is the Defining Issues Test (DIT) as described by Rest and Narvaez (1994). This instrument is based on the cognitive developmental theory advanced by Kohlberg (1984) but incorporates more gradual shifts in the cognitive development schema and is said to be better suited to an assessment of micro morality issues in daily relationships (Trevino, Weaver & Reynolds 2006), as required for the purposes of this study.

The DIT is scored by algorithm instead of interview. In addition, the DIT is in the form of a multiple choice questionnaire that is shorter and can be administered via mail or email, as opposed to the MJI which requires in depth interviews and scoring by trained assessors (Ishida 2006). However, the DIT and MJI scores are highly correlated (r = .70) which supports the contention that the tests are measuring the same underlying constructs (Rest 1984).

Compared with other measures of ethical reasoning, the DIT also provides more evidence of post conventional thinking. Narvaez and Bock (2002) and Rest (1979) have hypothesised that this may be because it measures recognition knowledge (the ability of respondents to recognise ethical responses from words already written for them), instead of their ability to verbally articulate the reasoning behind an ethical decision logically and coherently, which is much harder. The DIT test has been criticised by some researchers (Sanders 1995) for only measuring these recognition skills.

The original DIT instrument usually comprised six paragraph length hypothetical dilemmas (Ishida 2006). Table 2.4 below contains a summary of the traditional scenarios or dilemmas used.

Table 2.4: The traditional DIT case scenarios

No	NAME OF SCENARIO	SYNOPSIS
1	Heinz and the drug	Whether Heinz ought to steal a drug for his wife who is dying of cancer, after Heinz has attempted to get the drug in other ways.
2	The escaped prisoner	Whether a neighbour ought to report an escaped prisoner who has led an exemplary life after escaping prison.
3	Newspaper	Whether a principal of a school ought to stop publication of a student newspaper that has stirred complaints from the community for its political ideas.
4	Doctor	Whether a doctor should give medicine that may kill a terminally ill patient who is in pain and requests the medication.
5	Webster	Whether a manager ought to hire a minority member who is disfavoured by the store's clientele.
6	Students	College students protest against the Vietnam war.

***Source*: Rest, Narvaez, Thoma and Bebeau, (1999c, pp. 652-653).**

Some DIT scenarios can also test for religious ideology, political identity or opinions about public policy issues, but these matters were not addressed in this study.

The underlying structure of ethical judgment assessed by the DIT consists of three developmental schemas, similar to Kohlberg's (1976) levels of ethical development: personal interest, maintaining norms and post conventional (Rest *et al.* 1999c). Each ethical dilemma used in the DIT is accompanied by twelve issues (or questions that someone deliberating on the dilemma might consider) for consideration in resolving the dilemma. Each issue is designed to represent the different elements that were diagnostic of the three developmental schemas (Rest 1984). The respondent is first asked what action should be taken in the circumstances. They are then asked to rate each of the twelve issues according to their importance to the resolution of the dilemma, and then rank the four most important items (Abdolmohammadi & Sultan 2002).

The theory suggests that the relationship between the DIT score and ethical behaviour should be linear (Bay & Greenberg 2001). That is: ethical behaviour should increase with the level of ethical development shown by the respondents. By contrast, Ponemon's (2003) paper reported a quadrant relationship, whereby respondents with both low and high scores were more likely to behave unethically.

The results of Bay and Greenberg's (2001) study were consistent with Ponemon's (1993) earlier findings, although they conceded that their results may have been driven by male subject scores, female subjects showing a decreasing level of ethical behaviour as the scores on DIT increased.

A revised version of the DIT measure is the Defining Issues Test 2 ("DIT 2") developed by Rest et al. (1999c) as illustrated in Table 2.5 below.

Table 2.5: The traditional DIT2 case scenarios

No.	Scenario Name	Synopsis
1	Famine	A father contemplates stealing food for his starving family from the warehouse of a rich man hoarding food (comparable to Heinz).
2	Reporter	A newspaper reporter must decide whether to report a damaging story about a political candidate – comparable to prisoner dilemma.
3	School Board	A school board must decide whether to hold a contentious and dangerous meeting – comparable to newspaper.
4	Cancer	A doctor must decide whether to give an overdose to kill a frail patient.
5	Demonstration	College students demonstrate against U.S foreign policy.

Source: **Rest, Narvaez, Thoma and Bebeau (1999c, p. 652).**

The DIT 2 instrument shares the same underlying structure as the DIT instrument (Rest *et al*. 1999) but usually comprises five paragraph length hypothetical dilemmas instead of six. A "fragment strategy" (Borenstein *et al*. 2006, p.5) is also used where each scenario is short and cryptic, presenting only enough words to convey a line of thinking, not to present a full oration.

Dilemmas and items on the DIT 2 instrument closely parallel the moral issues and ideas presented on the traditional DIT instrument and are tested and scored in a similar manner. However the circumstances in the dilemmas and their order have been changed (Borenstein *et al.* 2006). Again, the respondent is given a recognition task to rate and rank the 12 issues provided in terms of their importance to the resolution of the dilemma. The 12 issues are again grouped to represent Rest's (1984) different schemas in equal parts.

Responses to the DIT 2 tasks are analysed to determine the degree to which post conventional thinking is prevalent, using a score known for the purposes of this study as the P score, and the degree to which post conventional thinking is present and pre-conventional thinking is absent, using a different score, identified as the N2 score for the purposes of this study (Borenstein *et al.* 2006).

The P score or Principled Moral Thinking Score (Rest & Narvaez 1994) is calculated on the basis of the ranking data (Rest *et al*. 1997). It provides a measure between 0 and 95 of the respondent's ability to give greater weighting to items representing stage five and stage six in Kohlberg's (1969) six stage model. The higher the P score, the closer the respondent is to post conventional or principled thinking, as represented by level three in Table 2.6 above.

Thus, for the purposes of this study, and consistent with the literature, two premises follow. The first premise is that the higher the P score, the higher the level of ethical reasoning of the respondent. The second premise is that high levels of ethical reasoning among financial planning participants should mean lower instances of unethical behaviour (Thoma 1994).

The P score is a reliable instrument for measuring ethical reasoning with a test – retest reliability of between the high .70's to the low .80's (Abdolmohammadi & Sultan 2002, p.168) and has consistently given better trends for theoretically expected findings than other indexes (Rest, Thoma, Narvaez & Bebeau 1997, p.498).

The N2 score has two parts. The first part is the degree to which the P items have been prioritized and the degree to which the items associated with the lower stages are rated lower than the ratings given to items representing the higher stages (Borenstein *et al.* 2006).

The second part is based on the ratings data and measures the discrimination between the average rating given to items at the pre-conventional stage and the average rating given to items at the post conventional stage (Rest *et al*. 1997, p.501). Average ratings are standardised by dividing this difference by the respondent's average standard deviation of all three stages added together. The two parts of the score are then combined into one score per respondent, by adding the P score to the ratings data, weighted by three.

The N2 score therefore uses the same ranking data as the P score in addition to the rating data. Rest *et al*. (1997, p.500) have claimed that the N2 score, as a hybrid index, generally outperforms the P score, but the two scores are highly correlated (r <.90).

The DIT and DIT2 instruments have been validated and used in numerous studies (Borenstein *et al*. 2006; Bebeau 2002). Whilst the DIT and DIT 2 instruments have limitations, they have been extensively tested over time and are justified on the empirical literature (Borenstein *et al.* 2006). All scales have acceptable levels of reliability (Loviscky, Trevino & Jacobs 2007).

Recent studies have developed profession specific measures of moral judgment using the DIT or DIT 2 as a foundation (Thorne 2000; Abdolmohammadi & Sultan 2002). This is to overcome concerns about applying traditional hypothetical moral dilemmas to measure the ethical reasoning of members of a profession when engaged in their daily practice (Thorne 2000, p.144.). This is despite the results of some studies that ethical reasoning is lower when individuals respond to work-related dilemmas compared to non work dilemmas (Weber 1996).

Thorne (2000) developed two accounting-specific measures of prescriptive and deliberative moral reasoning for accountants using the DIT instrument as a prototype. She developed six accounting specific ethical dilemmas with the assistance of a group of accountants who identified key factors that would influence their resolution of the dilemmas.

These factors were formulated into a format that was consistent with the twelve items used in the DIT instrument. A Delphi panel of experts was then convened to assign each of the 12 items to the three development schemas used in Rest *et al.* (1999c) model. Cronbach’s alpha for both accounting specific instruments was higher than that of the traditional DIT (.75 versus .51 for the prescriptive mode and .65 versus .60 for the deliberative mode).

To account for practical considerations such as time availability and subject fatigue, Thorne (2000) developed a shorter version of the DIT instrument, using four ethical dilemmas instead of six. She found no significant difference between the scores of respondents on the four case instrument to the six case instrument. Test – retest correlations for the four case instrument decreased when compared with the six case instrument (to 0.55 from 0.71 for the prescriptive mode; to 0.56 from 0.79 for the deliberative mode). However, this result was expected based on Rest’s (1986) reports of an average decline in the test- retest reliability of 0.11 when the number of cases in the DIT was reduced from six to three.

Thorne’s (2000, p.154) results suggested that short term contextual factors, such as self interest, may adversely affect accountants’ propensity to formulate and exercise professional judgment according to their cognitive capacity.

Borenstein *et al.* (2006) developed the Engineering and Science Issues Test (ESIT), using the DIT 2 instrument as a foundation, to assess the ethical judgment of engineers. They developed their own profession specific dilemmas in engineering and science, rather than using the expert panels that assisted Thorne (2000), but otherwise a similar process was adopted.

Utilising similar techniques to those employed by Thorne (2000) and Borenstein *et al.* (2006) in their research, this study developed the Financial Advisory Issues Test (FAIT), to test the cognitive ethical reasoning of financial planning participants. The FAIT instrument is described in more detail in Chapter 5 and was used as part of the main research questionnaire. It was based on the DIT 2 instrument and used profession specific case dilemmas to assess the ethical reasoning of respondents to this study.

2.4.2 Individual attributes as correlates of ethical reasoning

Numerous attributes of the individual decision maker have been studied to determine whether they have a significant statistical relationship with cognitive ethical reasoning. This study explores the relationships between cognitive ethical reasoning and some demographic factors namely, age, experience, education level, gender and professional designation.

A number of studies have demonstrated that ethical reasoning is a construct that is strongly related to age and education (Loviscky, Trevino & Jacobs 2007; Rest et al. 1986; Abdolmohammadi & Sultan 2002). Rest *et al.* (1997) and Thoma and Rest (1999) have found that between 38% and 52% variance in the DIT could be accounted for by age and education.

The results of the Borenstein et al. (2006) research did not support the results of other researchers that DIT 2 scores tended to be higher for respondents who were older and who had achieved a higher level of education. However, Borenstein *et al.* (2006) concluded that as their sample comprised mostly younger students between 19 and 25 years of age, this may account for this finding.

Years of experience is another correlate that has been tested for its influence on ethical reasoning. Freedman's (1990) research supports the conclusion that ethical reasoning is influenced by both age and experience.

In terms of gender, the results of previous studies are mixed. Some researchers such as Torjuul, Nordam and Sorlie (2005) have found no differences between male and female surgeons in identifying the kinds of ethical dilemmas faced by surgeons in their role. Other studies have also found no significant relationship between gender and moral judgment in work settings (Trevino, Weaver & Reynolds 2006).

In contrast, some studies have demonstrated differences between male and female subjects. Bay and Greenberg (2001) found male subjects showed a decreasing level of ethical behaviour compared to their female counterparts as P scores on the DIT increased. Bernardi (2007) found female accounting managers were at significantly higher levels of moral development then male managers.

The inconsistency in these findings is troubling. The different theories found in the literature, such as those of Ruddick (1989) and Held (1993), do not suggest different levels of cognitive ability, but rather argue that men and women have different notions of morality and apply them in different ways when making decisions. These researchers contend that the differences between men and women can be demonstrated through links to two different ethical theories; the ethics of care usually associated with Gilligan (1982) and based on responsiveness to and relationships with others and the ethics of justice linked to the work of Rawls (1971) and based on the equal distribution of social goods such as liberty, opportunity and income, unless an unequal distribution would favour the disadvantaged.

Gilligan (1982) has argued that moral dilemmas often arise for women as a result of competing responsibilities and not from competing rights, as they generally do for men. This may or may not be a consequence in part or whole on the social role of mothering (Held 1993). By contrast, a justice centred ethics framework focuses on exercising and respecting rights, being independent and autonomous and following a hierarchy of universal rules of conduct (Martin 2000).

The ethics of care and the ethics of justice have been described by Gatens (1995) as having three main features, which are outlined in Table 2.6 below. The content of the table suggests that what each gender regards as fair and just may differ greatly, as does the means by which men and women resolve ethical dilemmas.

Table 2.6: The main features of the ethics of care and the ethics of justice

Ethics of Care	Ethics of Justice
1. Responds to the specific character and context of any given moral issue	1. Is concerned with determining appropriate principles of justice so that social goods may be distributed fairly.
2. Moral reasoning has its origins in dependency relationships, such as mother – child, and the experiences and values developed as a result.	2. These principles are applied objectively, without influence from the context or relationships that may be relevant to the issue.
3. Focuses on the individual's responsibilities and duties of care to others.	3. Focuses on the rights of the individual or individuals to be affected by the distribution.

Source: **developed by the researcher**

Using these theories, when applied to professional financial planner/client relationships, the emphasis in decision-making between men and women should therefore shift from an objective respect for the client's rights (if an ethics of justice model was used) towards subjective care for their wellbeing and the relationship with the financial planner (if an ethics of care model is adopted).

Martin (2000) has maintained that professionalism does and should evoke personal commitments to caring about clients which is gender neutral. This approach can be compatible with the traditional emphasis on respect for client autonomy, which also allows for "professional distance", that limits the expression of personal values in professional life. However, this concept doesn't have to imply the absence of caring and personal involvement.

There are criticisms of Gilligan's (1982) approach including her dismissal of an array of other moral themes such as virtue ethics and utilitarianism. Further, the literature suggests the linkage of the ethics of care and the ethics of justice between men and women is not always supported by the studies (Martin 2000). Some have also argued that individuals who operate at the highest stages of cognitive ethical development can make use of both the care and justice models (Ferrell, Fraedrich & Ferrell 2002).

This study hypothesised that female financial planning participants would have different cognitive ethical reasoning scores to their male counterparts. This hypothesis was also consistent with the findings of Bigel's (1998) study of the ethical reasoning of financial planners, which is discussed in the next section.

2.5 Studies of the Ethical Reasoning of Financial Planners

There have been numerous studies of the ethical reasoning of the members of other professions such as accountants (Armstrong, M. 1984; Arnold and Ponemon 1991; Thorne 2000; Porco 2003 and Poneman 1993), auditors (Bernadi & Arnold 1997; Straub 1994), medical students (Munro, Bore & Povis 2003), journalists (Westbrook 1994); nurses (de Casterle, Rulens & Gastrams 1998; Thissen 2003) and engineers (Borenstein et al. 2006).

In addition, numerous studies have tested the moral reasoning of participants using the DIT and DIT 2 instruments, including students (Abdolmohammadi & Sultan 2002), accountants (Bailey et al. 2005; Bay & Greenberg 2001), public relations practitioners (Cabot 2005), journalists (Coleman & Wilkins 2002) and undergraduate business students (Wilhelm & Czyzewski 2006).

However, the literature review revealed very few studies of the cognitive ethical reasoning of financial planning participants. Financial planners in the United States of America (U.S.A.) have been the subject of a study specifically measuring their cognitive ethical reasoning (Bigel 2000). The literature review revealed that Bigel's (1998) study had not been replicated in an Australian context, thus providing a gap in the research for this study to fill.

Bigel's (1998) study was based on Kohlberg's (1969) moral judgment framework and focused on two independent primary variables related to individual ethical reasoning, namely remuneration source and professionalization. Remuneration source was defined by Bigel (1998) as the compensation method by which financial planners were paid for investment services rendered. Professionalisation was defined by Bigel (1998) as the attainment of the CFP® practitioner professional designation which comprises specialised study, examination, and ethics for financial planners.

Bigel (1998) also measured the influence of other demographic correlates such as age, education, career tenure and gender. Education levels were indicated by academic degrees and/or professional designations (Goss 1998). Bigel (1998) hypothesized that the ethical development of financial planners increased with age, education level and career tenure and that female subjects would have higher ethical reasoning scores than male subjects.

He further hypothesized that CFP® designees would have higher ethical reasoning scores, as defined by the P score, than non financial planning designees and that fee based financial planners would manifest higher ethical development than both commission based financial planners and those who earned a combination of fee and commission.

To conduct the research, Bigel (1998) used Rest's (1979) DIT instrument and a demographic survey of 11 questions designed by Bigel (1998). The instrument was delivered by mail. Membership of the International Association for Financial Planning qualified the practitioner as a financial planner for the purposes of the sample frame of 424 respondents.

Bigel's (1998) main findings were that:

a) CFP® designees had higher ethical reasoning scores than other financial planners;
b) Fee based financial planners manifested no significantly different ethical reasoning scores to financial planners paid by commission or a combination of commission and fee;
c) Female financial planners scored higher on the ethical reasoning scale than men; and
d) More experienced financial planners scored higher than those new to the profession.

This study sought to examine whether Bigel's (1998) findings would be replicated in an Australian context. Accordingly, a similar methodology to that used by Bigel (1998) was adopted for one element of the research undertaken in this study. Bigel's (1998) hypotheses and demographic survey were also replicated for testing in an Australian environment.

Some Australian studies have undertaken research associated with financial planning. Clayton *et al.* (2007) found no statistically significant relationship between age and gender with the professional commitment of financial planners or with regard to internal or external locus of control. Clayton, Lynch & Kerry (2007) further researched the relationship between the job satisfaction of financial planners and their age, gender, job tenure and motivation.

In contrast to this study, Deakin University (FPA 2007d) have commenced further research examining whether members of financial planning and accounting professional associations in Australia and New Zealand, were guided in their ethical judgments by the codes of ethics of their particular association and whether their commitment to their employer organisation and their profession influenced their ethical judgments. The Deakin University study (FPA 2007d) drew on research conducted on organisational – professional commitment by Aranya and Ferris (1984) and Leung and Cooper (2005), among others. A recent review of the literature has not revealed published findings of this study.

This review of the literature has revealed gaps in research related to the cognitive ethical reasoning of financial planners in an Australian context.

2.6 Situational Factors Affecting Ethical Decision Making

The literature review has established that in addition to the individual and their attributes, situational factors are also correlates of ethical reasoning (Trevino, Weaver and Reynolds 2006).

Hitt (1990), for example, has suggested that the size of the organisation may be one such variable, together with the respondent's time with the organisation; the number of staff and the age of the organisation.

The size of the organisation was considered an interesting factor to be measured in this study given that the majority of the top 100 Australian financial planning organisations have multinational, national and/or complex and geographically diverse business structures (Money Management Magazine 2007). As Nash (1992) has pondered, measuring the moral pulse of organisations whose workforces exceed the populations of small towns and whose operations are often geographically widespread is very difficult.

Applied to this study, Hitt's (1990) findings suggest that the size of the financial services organisation could be significantly related to the ethical reasoning levels of respondents.

Research by Leung and Cooper (2005) has demonstrated that other situational factors, such as different fields of employment and hierarchical position influenced the perceptions of accountants about the ethical issues they faced. However, these relationships were not explored in this study.

The role of issue characteristics, such as moral intensity (Jones 1991) and issue perception have formed another stream of research in this area, as discussed in section 2.3 of this Chapter. Researchers, such as May and Pauli (2002) have suggested that the characteristics of an ethical issue influence both ethical awareness and ethical intentions and in particular two of Jones' (1991) six dimensions of moral intensity, being the magnitude of the consequences and social consensus.

It is recognised that such issues are important to the understanding of the numerous factors that influence ethical decision making. However, this study preferred to move beyond issue characteristics to primarily concentrate on other individual, situational and contextual factors that were influencing ethical decision making within financial services organisations. The theory associated with these contextual factors is examined in the next section.

2.7 The Contextual Factors Affecting Ethical Decision Making

2.7.1 Ethical decision making within organisations

In order to consider the contextual factors that influence ethical decision making within organisations, a broader understanding of the business ethics literature related to organisational obligations and responsibilities in decision making is required. Accordingly, this section of the Chapter explores these concepts.

In the 1960's, Friedman (1982) argued that a business has no ethical or social responsibility beyond that of making profit for its shareholders, so long as it engages in open and free competition without deception or fraud. In effect, Friedman's (1982) thesis is that the sole purpose of business is to increase the wealth of its shareholders.

The literature review however suggests a shift in thinking from Friedman's (1982) view of business as profit, to a view that business has ethical and social dimensions that transcend mere economic considerations" (KPMG 2005).

Some researchers, such as Preston (1996) and Solomon (1993) believe that a business operates within a social environment from which it benefits and to which it is obliged to contribute as a moral agent. Therefore, business has a role to play in regulating and defining the individual responsibilities and role behaviour of those it employs (Stead, Worrell & Stead 1990; Preston & Sampford 2002; Shaw 2003).

This view seems to be more in keeping with popular thought. For example, 95% of respondents to a Business Week poll in 2000 thought the purpose of business included benefiting workers and communities (Wines & Hamilton 2003). This study embraces a similar view that financial services companies have numerous responsibilities including economic, social, legal and ethical to a broad range of stakeholders (Carroll 1979).

Indeed, a series of global financial and corporate scandals such as Enron (Dallas 2002; Heineman 2007) and Parmalat (Almond 1995) and here in Australia including the James Hardie Group (ASIC 2008b; Zwier & Kirwan 2007), HIH (Lipton 2003; Owen 2003) and the Australian Wheat Board (Cole 2006) may have also accelerated a new social mantra that society expects business to be trustworthy and avoid harming others, even if it is lawful to do so. Indeed, as Jackson (1995) has questioned, why should successful business men and women be less virtuous or trustworthy than doctors or other professions?

Tactics to remain competitive in a modern commercial environment influence the belief that behaving ethically is not profitable ((Ferrell, Fraedrich & Ferrell 2002). Yet, Heineman (2007) and Lagan (2000) have pointed to the cost to organisations of a lapse in organisational integrity in terms of money, distraction and reputation. Statutory fines, penalties and court settlements for such behaviour can run into the hundreds of millions of dollars and see a company collapse or implode as has been evident in the Australian financial services industry with the legal, financial and reputation fallout from the failure of investments in Westpoint (Taylor 2007; The Sydney Morning Herald 2007; ASIC 2008a; Jacob 2008), ACR (Egan 2007) and Fincorp (ASIC 2007b) and Basis Capital (Washington 2008).

One business myth according to Trevino and Brown (2002) is that unethical conduct in business is simply the result of bad apples. However, social psychology researchers including Milgram (1965) have demonstrated that when individuals are pressured by a strong corporate culture to be a “team member” and perceive that a command comes from a legitimate authority, even persons with higher moral reasoning can act unethically (Braithwaite 1993; Mudrack 2003).

In a recent study conducted by Ferrell, Fraedrich & Ferrell (2002 at p.170):

- 10% of employees surveyed indicated they take advantage of situations to further their own interests when the benefit of doing so is greater than the punishment received from the misconduct.
- Approximately 40% of those surveyed were concerned with conformity, with the work group and the social and relational implications of their actions.
- Another 40% tried to follow the company policies and rules concerning appropriate conduct in the workplace.
- The final 10% tried to follow their own beliefs and values on the basis that they were superior to those of others in the company.

Applied to the current study, these survey results suggest that 80% of respondents to this study should make ethical decisions according to either the organisational norms for behaviour or the company's policies and procedures. This indicates that financial services organisations can have significant influence over the ethical decision-making of employees and agents, irrespective of individual cognitive ethical reasoning levels (Mason & Mudrack 1997).

This is based on the premise that managers have more control over the work environment then they do over individual values and moral development (Trevino, Butterfield & McCabe 1998) and that managing ethics can have a strong influence on ethical behaviour within organisations (Stead, Worrell & Stead 1990).

No studies directly related to the types of unethical conduct exhibited by financial planners in the provision of financial advice to clients were identified in the literature review. However, some studies have considered the unethical conduct of workers within an organisational context per se (Lagan 2000; Ferrell, Fraedrich & Ferrell 2002).

Research conducted by KPMG (Lagan 2000) among Australia's largest businesses has demonstrated that one in two employees recognize unethical behaviour exists in their workplace. Table 2.7 below illustrates the top six ethical issues in the workplace as identified by management in the first column as opposed to the top six ethical issues identified by employees in the same survey. Lagan (2000) has contended that these survey results demonstrate that workplaces can undermine personal values.

It is of interest to this study that conflict of interest was ranked number one by management and at number six by employees. It is inferred from this that management may be more aware of conflicts of interest in the workplace due to their day to day management and control of such issues.

Table 2.7: Australian perceptions of unethical behaviour in the workplace

Top six ethical issues identified by management	Top six ethical issues identified by employees
1. Conflict of interest	1. Personal use of company assets
2. Unauthorised use of company assets	2. Falsifying sick leave or absenteeism
3. Conducting private business during working hours	3. Conducting private business during working hours
4. Falsifying the company's records	4. Sexual harassment
5. Disclosure of confidential information	5. Disclosure of confidential information
6. Sexual harassment	6. Conflict of interest

***Source:* KPMG ethics survey 1999 as outlined in Lagan (2000, pp. 7-8).**

Whilst there is no universally accepted approach to the resolution of many of these or other ethical issues faced by the business world in the 21st century, governments and other stakeholders are encouraging organisational accountability for ethical as well as legal conduct (Fraedrich and Ferrell 1992).

However, the Australian Compliance Institute (2005, p.2) has identified that for boards and management to ask and answer the right questions in this regard requires a 'Cold Fusion' of compliance, governance and risk management systems with ethics and culture.

An empirical analysis of the primary types of unethical conduct that financial planners engaged in, or the perceptions of financial planning participants of the types of issues they believed may be affecting their decision making was not revealed by the literature review.

A study of court-based ASIC enforcement patterns during 1997 to 1999 undertaken by Bird *et al*. (2003) can be differentiated on the basis that it sought to determine whether ASIC's enforcement activities during that period were consistent with sociological theories concerning legal regulatory processes and the effectiveness of the law. The study also did not seek to limit its scope to financial planning participants only. Bird *et* *al.* (2003) concluded that the majority of enforcement activities undertaken during that period, concerned breaches of mandatory, socially oriented or ethically based laws in circumstances where the participants' behavior was widely regarded as undesirable.

2.7.2 The contextual factors influencing ethical decision making

As with other professions, the professional practice of financial planners is influenced by the corporation for which they work (Lefkowitz 2003).

Trevino, Weaver and Reynolds (2006) have described numerous contextual factors that have been empirically shown to influence ethical behaviour and ethical decision making within organisations. These include overt on the job pressures (Robertson and Rymon 2001), the importance of role (Grover 1997), remuneration and reward structures (Hegarty & Sims 1978; Trevino & Youngblood 1990); ethical leadership (Trevino & Brown 2004) and the ethical climate and ethical culture of the organisation (Weber 1995; Wimbush & Shepard 1994).

The next sections of this chapter review the literature associated with the contextual factors measured in this study, namely the role played by the individual, remuneration and reward structures, ethical leadership and the ethical climate and ethical culture of the financial services organisation.

2.7.3 The impact of role on ethical decision making

One of the contextual factors to be studied in this thesis is the impact that the individual's role within an organization has on both their ethical decision making and the decision making of others.

Preston (1996) has contended that the ethical obligations of a professional stem from the role they play or institution they serve and that the true test of ethical decision making for a professional is not of satisfying a personal conscience, but of acting in ways that are consistent with the duties entrusted to the role that the decision maker is given within an organisation or a profession.

It can be inferred from the literature that professions and business share some ethical standards in common, such as the obligation not to lie, cheat or steal and to keep promises. Yet, members of a profession have special standards of conduct expected of them that businesses do not (Davis 2002).

Despite this, to Finn (1997, 2003) fidelity to an organisation demands submitting to its directives and its view of what the organisation owes to the public. Yet, Davis (2002) has maintained that business ethics does not include an edict that professionals by definition must put the welfare of their employer ahead of their professional standards. According to McManus (2004), this latter test produces an interesting dilemma for many professionals who encounter the full range of ethical problems that occur in business, in addition to other ethical issues relating to their profession or role.

Finn (2003) and Martin (2000) have contended that financial and professional businesses operating under corporate umbrellas place pressure on individual professionals to resolve these conflicting obligations in favour of the organisation's values and objectives. This is an issue not just for financial planning. The Australian Law Reform Commission President, Professor David Weisbrot (2007) has conceded the push for lawyers to be more business-like has placed pressure on the service ideal that traditionally distinguished professions from business, leading to a need to rearticulate the core ethics and principles that bind lawyers together.

In this environment, this study has argued that financial planners require higher levels of ethical reasoning by financial planners to ensure decision-making is appropriate and in the interests of clients, whilst balancing the different duties owed to the emerging profession and the AFS Licensee.

One of the questions for this study therefore is whether contrary to what Thompson (2004) has argued, financial planners can balance their professional obligations and agency responsibilities to the organisations they represent. It is argued in this study that a moral hazard may exist if the financial planners perceive the latter relationship is more important than the former.

This study was particularly interested in the ethical decision making of compliance officers as managers within their organisations and their ability to influence the ethical decision making of the financial planners under their supervision.

In considering the role of management and its impact on ethical conduct and decision making, there are two elements to consider. The first is the ethical reasoning of the managers themselves and the second is how managers influence the ethical decision-making of those they supervise (Pennino 2002). The tasks undertaken in the role of compliance officer are discussed in more detail in section 3.5.2 of Chapter 3 but in summary include the monitoring and supervision of financial planners to ensure financial advice to clients meets legal, regulatory and organisational obligations.

The ethical decision-making of managers has been the subject of numerous studies (Akaah 1992; Boatright 1999; Okpara 2002; Beauchamp & Bowie 2004 O'Fallon & Butterfield 2005) although the relationship between managers and higher levels of cognitive ethical reasoning has not always been positive (Ponemon 1988).

Despite this, in their study of the cognitive ethical reasoning of managers, Turner *et al.* (2002) proposed a relationship between leaders with higher moral reasoning, a corresponding ability to conceptualise problems and relationships in more complex ways and the ability to make decisions in the interests of the group, rather than based on self interest.

According to Loviscky, Trevino and Jacobs (2007), the ethical judgment and decision-making of managers is important because managers must make decisions about ambiguous and complex ethical dilemmas which have significant implications for numerous stakeholders, including employees.

Researchers have also generated significant knowledge about the management of individual ethical behaviour in organisations ((Trevino & Weaver 2003; Trevino, Weaver & Reynolds 2006) and the processes by which unethical behaviour becomes normalised in organisations (Ashforth & Anand 2003).

Additionally, some research has demonstrated that the moral judgment of managers can be predictive of whistle-blowing, resistance to pressure from authority figures and unethical behaviours such as cheating and lying (Rest & Narvaez 1994; Greenberg 2002). Petrick and Quinn (1997, p.25) have posed five reasons for why managers should do so:

- the costs of unethical workplace conduct;
- the lack of awareness of ethically questionable acts related to managerial roles;
- the widespread erosion of integrity and exposure to ethical risk;
- the global corruption pressures that threaten managerial and organisational reputation; and
- the benefits of increased profitability and intrinsically desirable organisational order

In this study it is argued that the ethical decision-making of compliance officers in their management role and their ability to influence the ethical decision making of the financial planners they supervise, play an important role in the effective management of financial planning advice and in reducing the ethical risks posed by Petrick and Quinn (1997) above.

2.7.4 Remuneration and rewards

Remuneration and reward structures within organisations were another contextual factor influencing ethical decision-making identified from the literature review. As outlined in section 2.5 of this Chapter, Bigel's (1998) study measured the relationship between remuneration source and the ethical reasoning of U.S.A. financial planners. Measurement of this relationship in an Australian context was identified as a gap in the existing research.

Numerous studies have demonstrated that rewards or incentives for unethical behaviour increase the incidence of that behaviour (Hegarty & Sims 1978; Trevino & Youngblood 1990). What is less clear is the theoretical relationship between rewards and ethical behaviour as some studies suggest that offering rewards for ethical behaviour does not necessarily increase that behaviour (Trevino & Youngblood 1990).

However, a dearth of mechanisms for rewarding ethical conduct, whilst there are rewards for reaching pecuniary targets, may send ambiguous messages as to which priority is more important when making decisions (Wines & Hamilton 2003). Schweitzer, Ordonez & Douma (2004) have demonstrated that reward goals, such as bonuses paid for reaching volume and performance targets in financial services organisations, may adversely influence organizational culture and decision making.

As will be discussed in Chapter 3, remuneration and reward structures that favour self interest over the interest of clients may be influencing ethical decision making in the financial services industry. To avoid these issues, companies such as General Electric, have moved to evaluating performance on the basis of integrity issues (Heineman 2007) rather than pecuniary targets. The Australian Standard on Fraud and Corruption Control (Standards Australia 2003a) also encourages performance management systems that reward ethical conduct.

This study has also been influenced by the views of Jackall (1988) and Pederson (1999) that corporate remuneration structures may conflict with individual beliefs and values, which in turn adversely restricts independent moral thinking. This has been acknowledged by some as a factor influencing the ethical behaviour of financial planners engaged or employed by large financial institutions in particular (Braithwaite 1993; Lepper 1983).

2.7.5 Ethical Leadership

The literature review has identified ethical leadership as another contextual factor that has been the subject of research to determine its relationship with ethical conduct and decision-making.

Ethical leadership has been defined by Brown, Trevino and Harrison (2005, p.120) as the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships and the promotion of such conduct to followers through two-way communication, reinforcement and decision-making. This definition was adopted for the purposes of this study.

Trevino and Brown (2004) have argued that ethical leaders elicit ethical behavior from followers through the followers' wish to reciprocate the leader's supportive treatment. Research by Brown, Trevino and Harrison (2005) has also demonstrated that perceptions of ethical leadership were associated with job satisfaction and dedication and a willingness by followers to report problems to management.

The relationship between ethical leadership, ethical reasoning, ethical climate and employee attitudes has also been the subject of research by Schminke, Ambrose and Neubaum (2005). This research found that leaders with higher ethical reasoning scores measured by the DIT instrument were more likely to influence the ethical climate in their groups, particularly in younger organisations (Trevino, Weaver & Reynolds 2007).

Applied to this current study, this research suggests that ethical leadership within financial services organisations may be significantly related to perceptions of ethical climate type and may have a positive influence on the ethical behaviour of staff.

2.7.6 Ethical climate

The ethical context of an organisation is defined for the purposes of this study as its internal psychological environment and the relationship of that environment to individual meaning and organisational development (Denison 1996).

This ethical context is usually represented by two multidimensional constructs, the ethical climate and the ethical culture of the organisation (Trevino & Youngblood 1990). This section of the chapter will consider the literature in relation to ethical climate, which can be described as a multidimensional construct manifested in organisations and a component of organisational culture (Armstrong, Kusuma and Sweeney 1999). It is also an influential conceptual foundation in the business ethics domain (Martin & Cullen 2006).

Victor and Cullen (2001) have defined "ethical climate" as a shared perception of what behaviour is right and what behaviour the organisation expects from its members. This definition has been adopted by other researchers (Reichers & Schneider 1990; Kelloway *et al.* 1999) and was used for the purposes of the study. The definition is based on the assumption that organisational members know what the climate is and can describe it in an objective way to outsiders (Weber 1993).

Martin and Cullen (2006) and Cullen, Parboteeah and Victor (2003) have suggested that an organisation's ethical climate helps to determine:

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

Victor and Cullen (1998, 2001) have postulated that ethical climates are based on three major types of ethical philosophical theory, described previously in section 2.2.1 of Chapter 2 of this thesis. These theories are Egoism, which leads to individuals making ethical decisions based on self interest, Teleology and utilitarianism which emphasise the maximisation of joint interests and the minimisation of harm to others and Deontology, which guides decision-making based on doing one's duty to satisfy the needs and claims of others, as determined by applicable moral standards (Armstrong, Kusuma and Sweeney 1999).

Victor and Cullen (1988) combined these theories with Kohlberg's (1981) six stages of moral development, represented by three levels called individual; local or organisational and cosmopolitan or society. The subsequent descriptive model of ethical decision-making and actions within an organisation, represented nine theoretical climate types where decisions were guided by different ethical criteria. These climate types are shown in Table 2.8.

The types of decisions made at each of the nine levels have been described by Upchurch and Ruhand (1996) and Cullen, Victor and Stephens (1989). In an egoistic climate, at the individual level, ethical decisions are made according to individual preferences. At an organisational level decisions are influenced by the organisation's interests and profit and at the cosmopolitan level, by efficiency. In benevolent climates, individuals are concerned with friendships when making decisions. At an organisational level, decisions are influenced by the most equitable results for the team's interests and at the cosmopolitan level the focus is on external criteria which endorse socially responsible behaviour. In principled climates, the decisions of individuals are influenced by their own personal morality. Company rules and regulations influence decision making in these climates at an organisational level and at the cosmopolitan level, forces external to the organisation such as laws and professional codes become the focus.

Table 2.8: The nine theoretical dimensions of ethical climate

Ethical Criteria	**Locus of Analysis**		
	Individual	***Local/ Organisational***	***Cosmopolitan/ Society***
Egoism	Self interest	Company Profit	Efficiency
Benevolence	Friendship	Team Interest	Social Responsibility
Principle	Personal Morality	Company rules and procedures	Laws and Professional Codes

***Source*: Cullen, Victor and Stephens (1989, p.58)**

A revised model developed by Victor and Cullen (2001) suggested five climate types which were supported by subsequent studies (Wimbush & Shepard 1994; Upchurch & Ruland 1996). These climate types are represented in Table 2.9 below.

Table 2.9: The five common empirical dimensions of ethical climate

Ethical Criteria	**Locus of Analysis**		
	Individual	***Organisational***	***Society***
Egoism	Instrumental		
Benevolence	Caring		
Principle	Independence	Rules	Law and Code

***Source*: Martin and Cullen (2006, p.178)**

These climate types are also representative of the general perceptions of employees about the matters that are expected to influence their organisational decision making.

In an instrumental climate the organisation's members perceive they are expected to act and make decisions primarily based on furthering the company's interests first (Trevino, Weaver & Reynolds 2006). In a Caring climate, the organisation is usually perceived as preferring team and social responsibility, such that decision making is influenced by what is best for everyone and what is right for the customer and the public (Victor & Cullen 2001).

In a Rules climate, there is an emphasis on following internal rules and standard operating procedures when making decisions (Applebaum, Deguire & Lay 2005; Liu, Fellows & Ng 2004). A Law and Code climate would require employees to comply with the codes and regulation of their profession and other externally generated standards in choosing a course of action (Armstrong, Kusuma & Sweeney 1999). In contrast, an Independent climate expects individual members to make decisions consistent with their own personal and moral beliefs.

It is inferred from the literature that there is no one best or preferred ethical climate, as firms can be ethical in many ways (Armstrong, Kusuma & Sweeney 1999). The different types of climate are also not mutually exclusive, although one is likely to dominate (Martin & Cullen 2006). However, Weber and Seger (2002) and Ede and Legoz (2002) have hypothesized that perceptions of ethical climate may differ across departments and employee levels because of differences in departmental tasks and stakeholder accountability and due to the size and decentralisation of large national and multinational organisations. In this study it is conceptualised that differences in perception of ethical climate may therefore be evident between compliance officers and financial planners given their different roles, accountability and tasks.

Previous research has revealed evidence of a relationship between the perceptions of ethical climate type and individual level work outcomes, such as job satisfaction (Vitell & Davis, 1990; Martin & Cullen 2006; Armstrong, Kusuma & Sweeney 1999; Joseph & Deshpande 1997) and organisational commitment (Cullen, Parbooteeah & Victor 2003).

In their empirical study, Cullen, Parboteeah and Victor (2003) found that perceptions of a benevolent climate were positively related to commitment and in turn perceptions of an egoistic climate were negatively related to commitment.

A study by Trevino, Butterfield and McCabe (1998) of 1200 alumni of U.S.A private colleges measured personal and organisational characteristics, ethical climate and culture of the work organisation of respondents, attitudes and behaviours. The questionnaire used for that study contained four-item subscales to measure nine theoretical dimensions of ethical climate, namely: self interest, company profit, efficiency, friendship, team interest, social responsibility, personal morality, rules and standard operating procedures and laws and professional codes. This questionnaire was modified to an Australian context and used in this study to measure ethical climate within financial services organisations.

Trevino, Butterfield and McCabe’s (1998) combined factor analysis resulted in three factors derived from ethical culture and seven factors derived from ethical climate items. Although the factors that emerged from this differentiated between climate and culture based items, these two dimensions of the ethical context were strongly related to each other. Trevino, Butterfield and McCabe’s (1998) concluded that the relationship between climate and culture dimensions was more important than the differences between them.

Research conducted by Okpara (2002) and Koh and Boo (2001) has shown that employees desire consistency between their own ethical value system and the ethical climate of their organiSation. Discrepancies between an individual’s internal ethical values, their perception of management’s values and the ethical climate within the organisation, can result in moral conflict if inconsistency prevails (Ferrell, Fraedrich & Ferrell 2002).

The literature review has revealed no empirical data on the ethical climate of financial planning organizations, despite significant studies in other areas such as not for profit organizations (Deshpande 1996), IT managers (Okpara 2002), police (Ede and Legoz 2002) and marketers (Barnett & Vaicys 2000). This gap in research has been filled by this study.

Tubbs and Pomerantz (2001) contend that such data can inform about the norms of practice which can in turn assist in establishing a standard of care within an organisation and a profession. In addition, Whitehead and Novak (2003) have argued that the ethical climate type of an organisation also plays a major role in addressing specific unethical behaviour. Organisations can reduce unethical choices by developing particular types of climates (Gephart, Harrison & Trevino 2007). For example, perceptions of caring climates can deter unethical behaviour because of their social support base (Wimbush, Shepard & Markham 1997a).

Similarly, ineffective climates may also lead to a lack of organisational control over employee actions, or predictable errors occurring in ethical behaviour or decision-making (Victor & Cullen 2001). For example, Gephart, Harrison and Trevino (2007) found that an egoistic climate increased the likelihood of unethical intentions and unethical behaviour. In contrast, a principled based climate which focuses on training, ethical guidelines, the implementation and enforcement of a code of conduct and other cultural systems, deterred unethical behaviour ($p < .3$ to $.5$) (Barnett & Vaicys 2000).

Having considered the research associated with ethical climate in this section of the chapter, the next section examines the literature related to ethical culture.

2.7.7 Ethical culture

Hofstede and Hofstede (2002) have defined culture in the anthropological sense as the collective programming of the mind distinguishing the members of one group or category of people, from another. The group or category can be a nation, region, organisation, profession, generation or gender.

Organisational culture was defined by Dallas (2002, p.5) as a complex set of common beliefs and expectations held by members of an organisation. It can therefore be a control mechanism that guides the attitudes and behaviours of employees in the workplace; via a core set of assumptions, understandings and implicit rules (Robbins *et al.* 1998). Theorists such as Denison (1996) have also linked effective organisational culture with outcomes such as financial performance and the achievement of company objectives.

The ethical culture of an organisation is a sub set of organisational culture. Ethical culture has been defined by Trevino and Youngblood (1990) to mean the observable manifestations of culture, such as formal and informal systems of behavioural control that are capable of promoting ethical or unethical behaviour. Pursuant to this definition, formal systems include policies such as codes of ethics, leadership, authority structures, reward systems and training programs. Informal systems include expectations about obedience to legitimate authority, peer behaviour and other ethical norms (Trevino, Butterfield & McCabe, 1998). This definition of ethical culture was adopted for the purposes of this study.

According to Trevino, Butterfield and McCabe (1998) and the Ethics Resource Center (2003, p.3) ethical behaviour should be higher in organisations where leaders and norms encourage and support ethical conduct and where ethical conduct is rewarded and unethical conduct punished, than in organisations without such characteristics.

This view is supported by Smith, B (2002) who has proposed that poor ethical decision making and unethical behaviour can be a function of a lack of organisational commitment or structure to establish a proper environment for sound ethical decision making.

The theory further suggests that promoting an ethical culture by rewarding ethical activities and by giving signals to employees/advisers that the organisation expects certain types of behaviour in certain situations, can be a positive force on individual behaviour and decision-making (Weber, 1993; Hegarty & Sims, 1993; Trevino & Youngblood, 1990).

Applied to this study therefore, one influence on the ethical decision making of financial planning participants may be the existence of formal and informal systems within financial services organisations that define acceptable and unacceptable ethical behaviour and promote ethical culture.

To measure ethical culture in this study, the study conducted by Trevino, Butterfield and McCabe (1998) was influential. In addition, the literature associated with expectations of ethical culture systems in an Australian context was reviewed. This included the Governance series of Australian Standards, such as the Australian Standards on Good Governance Principles (Standards Australia 2003a); Fraud and Corruption Control (Standards Australia 2003b); Organisational Codes of Conduct (Standards Australia 2003c); Corporate Social Responsibility (Standards Australia2003d) and Governance, Risk Management and Control Assurance (Standards Australia 2005), is to provide the mechanisms for organisations to establish and maintain an ethical culture through a committed self regulatory approach.

For example, the Australian Standard on Fraud and Corruption Control (Standards Australia 2003b) and Appendix B of AS 8000 Good Governance Principles (Stndards Australia 2003a) discuss eleven elements required for a sound ethical culture including an ethical framework, codes of behaviour, allocation of responsibilities, the establishment of ethics committees, communication, training, reinforcement and benchmarking, reporting of complaints and leadership and role modelling from the senior management group.

These are similar elements to those measured by the Ethics Resource Center's Ethics Culture Survey (2003) and found in the Corporate Governance Principles of the Australian Stock Exchange (Australian Stock Exchange Corporate Governance Council 2007). These documents have provided a basis for the scale developed for the purposes of this study to measure the presence of these systems in financial services organisations.

This study has argued that the existence of formal and informal systems to assist ethical culture within AFS Licensees is an important factor in influencing ethical behaviour and decision-making by financial planning participants. Whilst these Australian standards referred to above are not mandatory, they provide AFS Licensees with significant assistance about the establishment, operation and maintenance of such systems in an Australian context.

2.8 Summary of the Literature Review

This chapter has reviewed the literature associated with ethical decision-making. It has discussed the theoretical relationships between ethical decision-making; ethical reasoning and ethical behaviour and explored the theories associated with the factors that affect ethical decision-making within organisations.

This review has provided significant theoretical and empirical support for this study and identified numerous gaps in the existing research. The review of the literature has also provided a better understanding of the constructs and relationships that are relevant to and applied in this study.

The Chapter also discussed a number of normative ethical theories to gain a broader insight into the theoretical constructs and concepts studied in this thesis. This included a description of the three main categories of ethical theory; namely deontology, teleology and virtue ethics.

The ethical principles and values that may apply to decision-making associated with financial planning advice were considered. As the study concerned the decision-making of individuals within a business context at a micro level, the application of professional and business ethics to the study's themes was also discussed.

The literature review revealed several theoretical models that have been applied to explain the ethical behaviour of individuals. This study is influenced by Rest's (1984) four component model in particular. Previous research has also demonstrated that ethical judgment, ethical reasoning and ethical behaviour are linked (Trevino & Youngblood 1990). For example, Abdolmohammadi and Sultan (2002) have demonstrated a positive correlation between ethical reasoning and ethical behaviour.

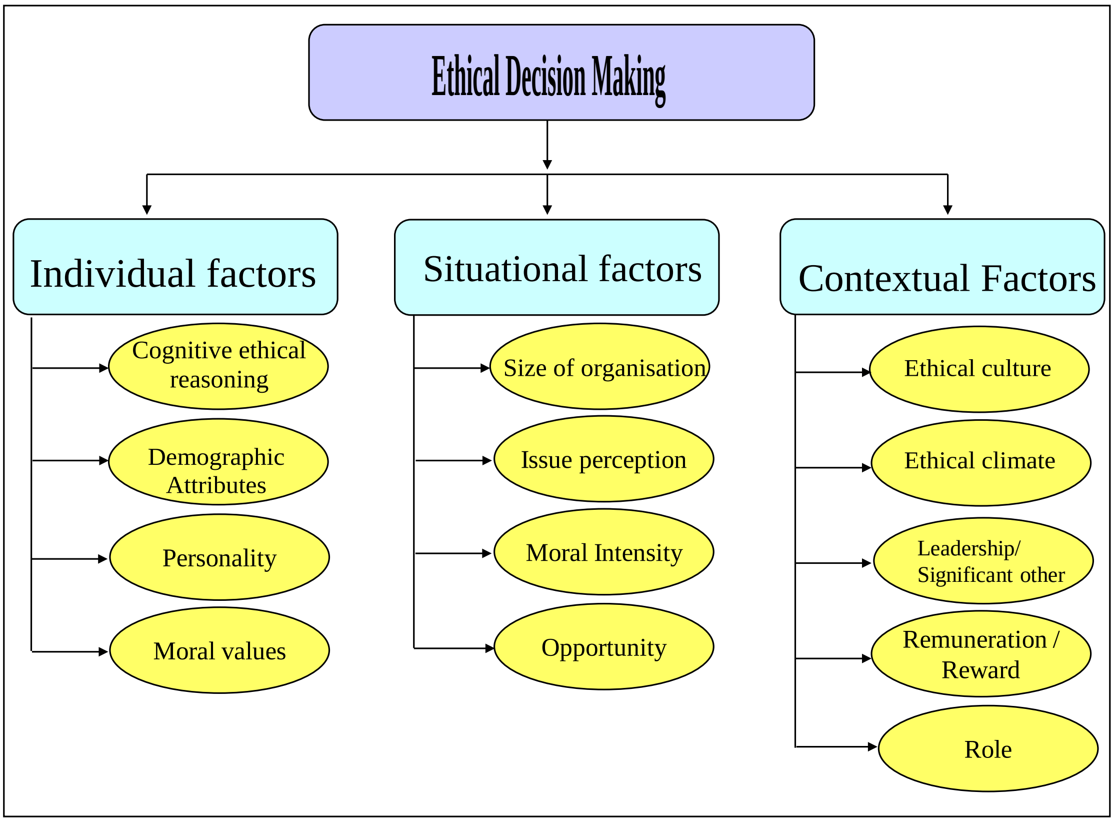
In summary, the literature review has highlighted that the study of ethical decision making within organisations has focused on the interplay of individual, situational and contextual characteristics as identified in Figure 1 below. This figure highlights the key predictors of ethical decision making within an organisational environment as identified from the literature review, namely:

a) individual characteristics as demonstrated by cognitive ethical reasoning, individual values and beliefs held, personality and individual attributes (Bigel 2000);

b) the characteristics of the situation in which the individual finds themselves, including the perception held by the individual of the issue they must resolve, the strength with which the moral issue confronted influences the decision-making process (Hofmann, Hoezl & Kirchler 2005), the size of the organization (Hitt 1990) and opportunity (Trevino, Weaver & Jacobs 2007); and

c) The characteristics of the context, representing the environment in which the decision-making takes place including the ethical climate (Victor & Cullen 2001) and ethical culture of the organization (Trevino, Butterfield and McCabe 1998); ethical leadership (Schweitzer, Ordonez & Douma 2004) and role (Van Gramberg & Menzies 2006); remuneration and reward structures and role conflict.

Figure 1: Key determinants of ethical decision making from the Literature



***Source*: developed by the researcher**

It was suggested in the literature that researchers should take a multi-dimensional approach to the measurement of ethical decision making (Wines & Hamilton 2003). Accordingly, this study measured some factors from each of the three dimensions illustrated in Figure 1 above. These factors are discussed in more detail in Chapter 4.

The next chapter outlines the context of the study and provides the basis for the research conducted into specific objectives one and two set for this thesis; namely to identify current patterns in unethical decision-making by financial planners, in the provision of financial advice to consumers and to investigate the perceptions of financial planners and compliance officers of the current ethical issues they face in their respective roles within financial services organisations.

CHAPTER 3: THE CONTEXT OF THE STUDY

> *It is not an adequate ethical standard to aspire to get through the day without being indicted. (Richard Breeden Former Chairman U.S.A Securities and Exchange Commission, as quoted in Paine [2003] at p.95).*

3.1 Introduction

The preceding chapter provided a review of the literature related to the key variables to be studied. It included an examination of the literature associated with ethical decision-making and the numerous individual, situational and contextual factors that may influence it. The Chapter also considered the research related to the empirical measurement of those variables and constructs.

This Chapter considers the practical context of the study. It commences with an explanation of the process of financial planning and why a study into the decision-making of financial planning participants is justified. It then provides a framework for understanding how the financial services industry operates in practice.

In order to consider the ethical obligations of financial planners in the provision of advice to consumers, the minimum legal standards of behaviour expected in the provision of financial advice must also be articulated. Accordingly, section 3.3 of the Chapter outlines the current legal standards that apply to financial advice. This includes a discussion of whether financial planners also have fiduciary obligations to their clients. A fiduciary has significant ethical obligations to clients that sit above legal standards (Finn 2003).

This is followed in section 3.4 by a consideration of the ethical and professional obligations against which most financial planners are judged, including the role played by professional codes of ethics and codes of conduct and how the Australian context relates to the international position.

The Chapter then explores responsibility for financial planning advice and the role of financial services organisations and their compliance structures in regulating adviser behaviour. Section 3.6 of the Chapter considers the role of the financial services regulator, ASIC and how it enforces the law against financial services organisations and financial advisers. The Chapter then explores the role of the EDR Scheme that hears and determines the majority of consumer disputes within the industry, the Financial Service Ombudsman (FOS) (formerly known as the Financial Industry Complaint Service or FICS). This discussion is relevant to the analysis of consumer complaints undertaken in stage two of this study.

The Chapter then considers the expectations for conduct of financial planners held by numerous stakeholders who are formally identified in Section 3.8. Section 3.9 of the Chapter presents a review of the literature and media and stakeholder comment related to the current primary ethical issues facing financial planning participants in Australia and considers recent documented examples of unethical conduct by financial advisers. These sections are again relevant particularly to the analysis undertaken in Stages two and three of the research.

3.2 Why Study Financial Planning?

This section of the Chapter explains financial planning as a process and then justifies why financial planning and the ethical decision-making of its participants should be the subject of this study.

Financial planners give advice as an integral part of the financial services sector. In this sector, people engage in an array of activities that involve the handling of financial transformations and assets (Clayton et al. 2007). The whole of society is dependent not only on the care and appropriate use of these assets, but also on the integrity associated with the transactions themselves (Boatright 1999, p.2).

Recent statistics confirm the increasing relevance of financial advice to the Australian economy. The 2005/06 Annual Report of ASIC (ASIC 2006f) estimated that there were 4,415 AFS Licensees, across 15 financial markets, although not all of these provide financial planning services. In 2007, the top 100 financial services organisations in Australia had 15,252 financial advisers who represented them (Money Management Magazine 2007). It has also been estimated that over 5 million Australians currently seek advice from the 12,000 members of the FPA alone (FPA 2007c). Those members invest $630 billion on behalf of their clients (FPA 2007c).

In providing advice to clients, financial planners usually engage in a six-step process (FPA 2007b) which is recognised internationally (Financial Planning Standards Board 2007). The process is outlined in Table 3.1 below.

Table 3.1: The six stages of the financial planning process

Step	Process
Step one	Gathering relevant financial and personal information.
Step two	Identifying the client's goals and objectives.
Step three	Devising a strategy or plan to assist in achieving these objectives.
Step four	Preparing a written financial plan (called a Statement of Advice or SOA under the Act).
Step five	Implementing the recommendations contained in the financial plan.
Step six	Reviewing the plan on a regular basis.

***Source*: FPA (2007b, p.2)**

According to the FPA (2006b) a financial planner can offer general wealth-creation advice and assistance across all financial markets, or specialise in areas such as:

- holistic financial planning advice such as retirement planning, estate planning, small business financial management and planning, debt and risk management, and/or
- financial product advice including superannuation, shares, life and general insurance, managed investments, securities and futures market, and/or
- the establishment of structures and facilitation of the achievement of financial objectives, such as advice on trusts and taxation.

A review of the literature on financial planning in Australia suggests that financial planning is becoming increasing relevant to the achievement of the political and social objectives of Australians and their government (Weekes & Hoyle 2004; Wilson 2004, Lucy 2006d). As mentioned in the introduction to this thesis, there is therefore an ever increasing and commensurate need to obtain expert financial planning advice to ensure a financially sustainable lifestyle and to provide for retirement years (Peel 2004; Gallop 2003).

As Wagner (2004) has articulated, financial activity and expert financial advice are an essential function for both individuals and society. In obtaining that advice, research by Goss (1998) has shown that consumers list trustworthiness as the most important element in their relationship with their financial planner. Yet, consumer surveys also reveal that consumers rank financial planners amongst the lowest occupations when it comes to trustworthiness (Australian Investors Association 2004).

These findings are coupled with a current public perception that despite the numerous legal obligations prescribed by the Act, financial planners are unethical and incompetent (ASIC 2003a, 2004d, 2005f; Vessenes 1997; Bruining 2004; Brown 2003, 2007). Many stakeholders have also been critical of the financial services industry and its system of remuneration and rewards that are perceived as being associated with self interest and not in the interests of clients (ASIC 2004b; Wolthuizen 2003; Accounting Professional Ethics and Standards Board 2008).

Recent media coverage concerning financial planners and the imminent regulation of mortgage broking (Australian Government Treasury Paper 2008a) and margin lending (Money Management Magazine 2009a), have focused on various issues such as claims of insider dealing (D'Aloisio 2008), fraudulent mismanagement of investors' funds (Armstrong 2008), conflicts of interest (Cooper 2006), aggressive miss-selling and cross selling of services not suited to individual needs and poor investment advice in general (Beaman 2009). These are all damaging to the reputation of financial planning and financial services organisations (Kitson & Campbell 1996).

There is evidence that some recent financial market failures, which have led to significant losses by investors, are linked to advice from unlicensed financial advisers (ASIC 2007b). These failures have led to enhanced mistrust of the financial services industry and financial advisers in general on the part of consumers. They include the failure of the stock market firm Opes Prime (Armstrong 2008) which collapsed on 27

March, 2008 after cash and stock movement irregularities were uncovered in a number of small accounts; and the collapse of the Geelong accounting firm, Chartwell Financial Services (Draper 2008).

It is argued in this thesis that a reputation for ethical conduct is therefore crucial to achieving the confidence of clients and relational trust (Saparito, Chen & Sapienza 2004) and for financial planners to form an identity as a profession (Bailey M. 2005). Court cases such as Ali v Hartley Poynton (2000) VSC 113, and Capricorn Financial Planners Pty Ltd v ASIC [1999] FCA 558 have also confirmed that financial advisers will be held accountable to meet exacting ethical and legal obligations.

There are therefore many significant reasons to research the ethical decision making of financial planning participants within financial services organisations.

3.3 The Legal Standards that Apply to Financial Planning Advice

3.3.1 The current legal standard for financial advisers

This section of Chapter 3 considers the current legal obligations that apply to the provision of financial planning advice in Australia. This is important because it delineates the minimum standard of conduct expected of a financial planner by the Regulator and other stakeholders.

The current legal standard of care to which financial planners are accountable has many elements (FICS 2008). In determining financial planning complaints, the Financial Ombudsman Service Panel (formerly the FICS panel) usually describes the standard of care it expects of financial planners as follows: [FICS Panel Determination no. 13453 of 5/2/07 at p. 89]

> *The legal nature of the adviser - investor relationship, as in financial planning, is fiduciary unless the scope is limited by the scope of the engagement…but the relationship also founds rights of action in contract law, the tort of negligence and under statutory law. Accordingly, liability for loss or damages may arise from*

common law, out of breach of contract, duty of care, fiduciary duty or from the breach of statutory duty such as under the Corporations Law.

The elements of this description will now be explained. At statute, the provision of financial planning advice is governed by the Act. Financial planners, as representatives and authorised representatives of AFS Licensees, are required to render advice and service in accordance with the obligations prescribed by the Act. They are also caught by obligations under the ASIC Act 2001 (Cth) when providing advice, such as the obligation under section 12DA to avoid misleading or deceptive conduct.

Financial planners also have common law obligations to exercise an appropriate standard of due care, skill and diligence in their relationships and in the preparation of advice. Court proceedings for a breach of this duty are usually framed in negligence. There have been numerous cases where the common law duties of financial planners have been considered by Australian Courts, some of which are outlined in more detail in section 3.9 of Chapter 3. In addition, cases concerning actions against financial planners and decided by Australian Courts between 2006 and 2007 were the subject of analysis in stage two of this study.

The contractual relationship referred to in the FOS description is usually derived from a retainer between the AFS Licensee, financial planner and client (FPA 2008a). This document generally includes the duty to act in good faith in a commercial contract and to not breach any contractual obligations (Pacific Brands Sports Leisure Pty Ltd v Underworks Pty Ltd [2005] FCA 288; Adam v Perpetual Trustees Australia Ltd & ors [2006] SADC 62A).

Accordingly, breaches of the Act are only one element of the legal standard taken into account by ASIC, FOS and Australian Courts when determining the legal, professional and ethical conduct expected of a financial planner.

This legal standard can overlap at times with the ethical obligations of financial planners but it can also be very distinct and couched in different terms. This will be explained in more detail in section 3.4 of this Chapter when the ethical obligations for financial planners are outlined.

3.3.2 Are financial planners also fiduciaries?

A fiduciary has been defined by Finn (1977) as a professional who owes the duties of good faith, loyalty, trust, and candour to a client, in addition to acting in their best interests. The fiduciary occupies a position of trust and confidence to that person and undertakes to disclose any conflicts of interest which may influence the provision of objective advice (Tuch 2005).

There are effectively two types of fiduciary relationship. One type is established by law or based in statute, such as a trustee/beneficiary; lawyer/client; director/shareholder. The other type is usually established on the facts of each case.

Although there is no reported court decision directly on point, there is significant evidence both nationally (APESB 2008; ICAA 2006b, 2007a) and internationally (Financial Planning Standards Board 2006, 2007; CFP® Board of Standards 2007a, 2007b) to suggest that financial planners as "investment advisers" or as a corporate adviser will be held to be in a fiduciary relationship with clients where financial planning advice is given over a period of time, (Pearson, 2006; Hanrahan 1998; Hospital Products Limited v United States Surgical Corporation (1984) 156 CLR 41; Commonwealth Bank of Australia v Smith [1991] 102 ALR 453; Finding v Commonwealth Bank of Australia [2001] 1 QdR 168; Aequitas Limited v Sparad No. 100 Ltd (2001) 19 ACLC 1006).

Indeed, despite recent moves by ASIC to examine whether and in what circumstances financial advisers will be in a fiduciary relationship with their client (D'Aloisio 2007), ASIC has previously held financial planners to this standard in certain circumstances, particularly where they have had a power of attorney or other overt control over their client's affairs (ASIC 2002b). As indicated in the previous section, the legal standard of care for financial planners articulated by FOS also includes reference to a fiduciary standard.

However, even if a fiduciary relationship is found to exist, a Court may confine the obligations to a number of specific duties, for example, in the absence of fully informed consent, to avoid both conflicts of interests and profits arising out of fiduciary relationship [Adam v Perpetual Trustees & ors [2006] SADC 62].

A fiduciary relationship therefore gives rise to a higher standard of care and duty than one based simply in statute or contract. The service of another's interests is the key to the fiduciary relationship (Finn 2003). If financial planners are in a fiduciary relationship, they cannot misuse their position, knowledge or opportunities resulting from it, to their own or a third party's possible advantage (Chan v Zacharia (1984) CLR 178). They must also avoid any conflict of interest that poses a significant threat to the adviser's conduct and performance in providing financial advice, or that may create a negative perception of their ability to do so, unless the client, fully informed, consents, or it is authorised by the law (Nicolette & Tuttle 2007).

3.4 The Ethical Obligations that Apply to Financial Planning Advice

3.4.1 Is financial planning a profession?

The question of whether financial planning is a "profession" is important to this study as this affects the level of ethical obligations the group has to clients, other stakeholders and society in general.

The Australian Council of Professions (2007), amongst others (ICAA 2006a), has described a profession as a disciplined group of individuals whose members must at all times adhere to ethical standards and hold themselves out as, and are accepted by the public as possessing, special knowledge and skills. As D'Ascenzo (2007a) has stated, provided professions accept the public interest as the ultimate test of the legitimacy of their practices, the professions are now more necessary than ever.

Barber (1988) and others (Wagner 2004; Miller 2002) have argued that a profession and the behaviour expected of its members follow a number of common criteria. That is: each profession should have:

1 a common identity;

2 in keeping with the Australian Council of Profession's description, an altruistic motive or a primary orientation to the community interest rather than individual self interest, with a corresponding system of rewards that is primarily a set of symbols of work achievements;

3 a strong ethical context;

4 intense academic preparation and an esoteric common body of knowledge; and

5 a high degree of self control of behaviour usually articulated in a Code of Ethics.

In terms of altruism, Wagner (2004) has espoused that the proper function of the financial planner is the provision of expert financial advice. In performing this function, the financial planning profession has a duty to increase consumer confidence in financial advice.

Another characteristic of a profession is autonomy of decision-making and the exercise of professional judgment (Dal Pont 2003; Cull 2002). This assumes financial planners should be able to exercise considerable professional judgment in the performance of their tasks.

Callahan (1988) has suggested that the question of whether or not an occupation is more or less professionalized depends on how thoroughly it manifests these characteristics or criteria. For example, professions like medicine and law have strengths in some areas that others lack, such as institutionalized status.

Inevitably, not all professions meet all of the criteria and some occupations will meet some, but not others, however, this does not detract from the fact that there is an academic distinction that can be made between a profession and an occupation.

An emerging profession is usually described as an occupation which has some generalized knowledge and community orientation and whose status is clearly defined by others (Barber 1988), such as social work. Its members do not share equal amounts of any feature or characteristic that they may possess as a group, but the elite within that group are clearly professional. It is usually they who push for the advancement of professionalisation within the group.

This study has assumed that financial planning is an emerging profession on the basis of this description and evidence that financial planning at this current time meets only some of the traditional criteria of a profession (ICAA 2007a).

First, many argue financial planners do not have a common identity (Lefkowitz 2003 p. 396). Some perceive financial planners as financial product salesmen or agents for large financial services organisations, not professionals providing advisory services to their clients (Wolthuizen 2003; ASIC 2004d, 2006b). It is argued that financial planners currently suffer a crisis of identity in this regard (Longo 2000; Devenish 2004), not a common identity as would be expected by the literature.

In addition there appears to be much confusion among consumers distinguishing between a financial planner and other investment advisers and the nature of the services they provide (Walker 2003; Brown 2002; Briault 2007; D'Aloisio 2007). It is recognised that financial planning, as a method of providing financial advice, only began to crystallize in Australia in the 1980's (FPA 2006b). It may be therefore that financial planning has not had time to develop a common identity or moral sense of its own, as manifested by a handing down of skills, learning and experience over generation of financial planning practitioners.

Secondly, it has been argued that financial planners are not motivated by altruism, but self interest. (Australian Investors Association survey 2004). In particular, recent research has shown that payment structures in the financial services industry create a system of rewards that is perceived as being associated with self interest and not other objectives such as work achievement (ASIC 2004b; 2005b, 2005; ICAA 2007b).

Thirdly, there has been debate about whether the level of education and qualification expected before a financial planner can practise is at a sufficient level (ICAA 2007a; FPA 2006f). For example, there are numerous education pathways recognised by ASIC Regulatory Guide 146 (ASIC 2008d) in order for a person to become authorised to represent an AFS Licensee, many of which are not tertiary qualifications, nor require a mandatory period of intense study.

Despite this evidence, it has argued in this thesis that even an emerging profession such as financial planning, where the social and economic outcomes of the services they provide to Australian consumer are critical, requires a strong ethical context. This means an understanding, commitment to and application of a set of ethical principles to which the whole group agree to adhere. These obligations sit above those legal standards set by government. The commensurate ethical obligations of financial planners as an emerging profession provide added impetus for a study into the factors influencing its decision-making.

3.4.2 The ethical obligations of financial planners

This section considers how the ethical context of the emerging financial planning profession is already articulated. This is important to this study as the Codes of Ethics of the major professional associations in the financial services sector were used as a benchmark to determine the primary types of unethical conduct by financial planning participants in stage two of the study.

The aspirational ethical principles and standards of professional conduct of any profession usually represent a collective industry viewpoint about the quality of the actions or behaviour expected of participants by stakeholders (Smith 2007).

These principles and standards are usually codified and sit above minimum legal and regulatory requirements. A current example in financial planning is the receipt of certain alternative remuneration benefits, such as volume bonus payments, previously paid by third parties to financial advisers (IFSA/FPA 2004). This ban is industry enforced and not replicated on statute.

The Codes in which these principles and standards are articulated have different forms and operate at a range of different levels such as within professional associations and within financial services organisations. The three primary forms are Codes of Ethics, Codes of Conduct and Codes of Practice (Miller 2002; Dellaportas *et al.* 2005). They range in their aims from setting out general statements of principle on how a profession or industry should operate to listing specific business practices which are guaranteed by the provider and its agents (Australian Government, the Treasury 1998). This thesis is primarily concerned with Codes of Ethics at a professional and organisational level.

A corporate Code of Ethics consistent with the Australian Standard on Organisational Codes of Conduct (AS 8002 – 2003) (Standards Australia 2003c), can be an important internal driver of culture. In addition, whilst professional ethics and legal principles seldom exist in isolation (Winston & Saunders 1998), a Code of Professional Ethics can provide members of a profession with aspirational standards that incorporate the role of professionalism and its relationship to the law (Windt et al. 1989) and provide a common professional identity (Francis 2000).

Whilst acknowledging that there is no absolute common morality that can be identified in a Professional Code of Ethics (Seedhouse 1994) and that many dispute the influence such a Code has on behaviour (Skene 1996; Milton Smith 1996) or that they are actively applied in an organisational context (KPMG 2005; Baumgart 2006), it is argued that a common professional Code of Ethics for financial planners has two main aims. One is to add value by providing a reference tool for use in making ethical decisions (Dal Pont 2003). The other aim is to facilitate a high degree of self control of behaviour by providing a benchmark for assessing the ethics of a member's conduct (Dellaportas et al. 2005; George 1986). Any model Code should also try to achieve the highest of Kohlberg's categories of moral development. (Francis 2000; Windt et al. 1989)

Codes of Conduct usually outline a specific standard of conduct for an industry or profession in relation to its customers. For example, the U.S.A. Certified Financial Planner™ Board of Standards (2007a, 2007d, 2008) has recently released a new Code of Ethics and Rules of Conduct, which includes a clarification that the Code of Ethics is aspirational in nature and that the Rules of Conduct are binding.

Financial Planners who are members of a professional association are usually bound by Codes of Ethics and Codes of Conduct. There are numerous professional associations within the Australian financial services industry to which financial planners can belong. However five associations have been identified from the research, which have membership categories for those who give financial advice. They are the FPA, the Association of Financial Advisers (AFA), CPA Australia, the Institute of Chartered

Accountants (ICAA), the National Insurance Brokers Association (NIBA) and the Securities and Derivatives Institute of Australia (SDIA).

The membership numbers of each Association as of 12 February 2008 are described in Table 3.2. The membership figures do not represent a cumulative total of all financial advisers or financial services organisations within Australia as some advisers are members of more than one Association and many advisers are not members of any association.

Table 3.2: 2007 Financial advisory membership figures of the primary professional associations.

Professional Association	Total Members	Primary membership cohort	Specialist Financial Planner Designation
FPA	12,000	Financial Planners	CFP®
CPA Australia	95,150	Accountants	CPA (FPS)
ICAA	58,000	Chartered Accountants	CA – Financial Planning Specialist
AFA	1,100	Financial Advisers	FChFP
NIBA	3100	Insurance Brokers	No
SDIA	66 organisations	Stock Broking firms	No

Sources: www.sdia.org,au, www.fpa.asn.au, www.cpaaustralia.org.au, www.icaa.org.au, www.afa.asn.au.
***Legend: refer to the use of abbreviated terms for full reference.**

The ethical tenets outlined in all Codes of Ethics from across the Associations have been tabulated and are presented in Appendix B. Table 3.3 below summarises a combined description of the varying ethical obligations for the provision of financial advice found in these Codes. The list of ethical obligations in the first column is extracted from the FPA Code of Ethics (1997). The combined definition for each ethical principle from the Code of the other association is described in column 2 (AFA 2007; FPA 1997; APESB 2006; NIBA 2005; SDIA 2005). These definitions were subsequently used in this research when analysing the decisions of external decision makers arising from consumer complaints about the conduct of financial planners in stage two of the research. The definitions provided a benchmark by which to determine whether or not unethical decision-making had occurred in a particular circumstance.

Table 3.3: Combined description of the ethical obligations for financial advisers from the Codes of Ethics of professional associations in Australia.

Principle	Code of Ethics Definition
Integrity	Observe high standards of honesty and integrity in conducting a financial planning business and in the provision of financial planning services. To be straightforward and sincere and keep one's commitments. To present accurately, honestly and completely, every fact known which is essential to the client's decision-making.
Objectivity	Uphold the principles of professional independence and maintain an impartial attitude whilst acting in the interests of the client. Disclose to the client any limitation on the ability to provide objective financial planning services. Recommend solutions that meet the client's situation and objectives.
Diligence	Act with due skill, professional care and diligence in the provision of financial planning advice. Act with dignity, respect and courtesy in dealing with all stakeholders, including clients and fellow professionals.
Professionalism	Conduct themselves in a manner consistent with the good reputation of the profession. Ensure conduct does not bring discredit to the financial planning profession. Apply appropriate professional standards when exercising discretionary judgement. Accept the consequences of one's actions and accept responsibility for one's decisions.
Confidentiality	Respect the confidentiality of information acquired in the course of work. Not discuss any confidential information without the specific consent of the provider of that information, unless compelled to by law or as required to fulfil legal obligations.
Fairness	Provide financial planning services in a manner that is fair and reasonable. Not allow prejudice, conflict of interest or bias to override objectivity.
Competence	Ensure conduct complies with the Constitution, regulations and Professional Standards of the Association. Act in the spirit of the Code and encourage others to do likewise. In the event of a claim, take every step necessary to ensure prompt and fair settlement.
Compliance	Provide competent financial planning services and maintain the necessary knowledge and skill to continue to do so in those areas in which the member is engaged. Be professional, efficient and responsive in all dealings.

Source: developed by the researcher

Whilst each Code contains statements that briefly explains the obligations and how they might apply to an adviser's professional relationships or the provision of services, none rank these obligations or explain which should have more importance in a particular situation. This can cause some difficulty, particularly when a decision maker is faced with conflicting principles (Lefkowitz 2003).

In addition to the principles outlined in Table 3.3, each professional association may have a number of additional rules and Codes that apply to membership. For example, the FPA has 35 additional rules in its Rules of Professional Conduct alone (FPA 1997). CPA Australia and ICAA have an additional 25 mandatory standards (CPA Australia/ICAA 2005), covering issues such as disclosure, risk, advice and remuneration practices. In addition, these Associations issue Codes of Conduct and Practice Notes or Guidelines from time to time to assist members with the practical application of their professional obligations in a day to day context (Investment Financial Services Association & Financial Planning Association of Australia 2004).

The FPA (2008a, 2008b) has recently announced that it will implement a new Code of Ethics and Rules of Professional Conduct (FPA 1997) to match the obligations of the Financial Planning Standards Board (FPSB); the international governing body for the CFP® mark worldwide (FPSB 2007). It is intended that this new Code of Ethics will be introduced in Australia from 1 July 2009 and become enforceable from 1 July 2010. However, the revised Code represents only a limited departure from the FPA's current code. The Code (FPA 2008a, 2008b) does contain a new principle as follows:

> *Principle 1: Client First: Placing the client's interests first is a hallmark of professionalism, requiring the financial planner to act honestly and not place personal and/or employer gain or advantage before the client's interests.*

The revision of these Codes is indicative of an international approach to tightening standards for financial planners and overcoming the problem of poor professionalism in parts of the financial advice sector (Certified Financial Planner® Board of Standards 2007c; Financial Services Authority (United Kingdom) 2007a; Financial Services Authority June 2007b; McCarthy 2007; Briault 2007; Investment Advisor Association & National Regulatory Services 2007).

Whilst this section of the Chapter has concerned itself with identifying and describing the individual ethical obligations of financial planners in Australia, the next section will consider who is responsible for financial planning advice.

3.5 Who is Responsible for Financial Planning Advice

3.5.1 The role of the financial services organisation

Advice on financial products and services in Australia is regulated through a licensing system overseen by ASIC (Money Management Magazine 2004). The license can be held by an individual or a company but is usually the latter and commonly a multinational or national organisation such as banks and insurance firms (Egan 2005).

Accordingly, this licensing system means that financial planners are not registered individually to practise as professionals as with some other professions. Instead, in order to provide advice in their field they must either hold an AFS Licence or be employed by or authorized to represent the holders of an AFS License under the Act (ASIC 2005g; Moore 2003).

Legal responsibility for the financial advice given by financial advisers and their conduct can rest simultaneously and concurrently with both the AFS Licensee and the financial adviser themselves (ASIC 2006c).

However, when the AFS Licensee provides financial product advice through one of its employees, it is the providing entity and has an overriding duty to ensure that the advice is provided in compliance with the law (ASIC 2002a). The AFS license can be the subject of enforcement action by the Regulator should it breach the law. Action may also be taken directly against the financial planner for breaching the standards expected of a providing entity (ASIC 2006c; Hayes and Australian Securities and Investment Commission [2006] AATA 1506).

The overarching legal obligations on an AFS Licensee are articulated in section 912A(1) of the Act and outlined in Table 3.4 below. ASIC Regulatory Guide 164 (ASIC 2002a) states that these obligations have the primary goal of ensuring:

(a) consumer confidence in using financial services; and

(b) the provision of efficient, honest, and fair financial services.

Table 3.4: Legal obligations of Australian Financial Service Licensees pursuant to Section 912A (1) of the Corporations Act 2001 (Cth)

Section 912A(1)(A)	Licensee Obligation
(a)	Do all things necessary to ensure that the financial services covered by the license are provided efficiently, honestly and fairly
(aa)	Have in place adequate arrangements for the management of conflicts of interest that may arise wholly, or partially, in relation to activities undertaken by the Licensee or a representative of the Licensee in the provision of financial services as part of the financial services business of the Licensee or the representative
(b)	Comply with the conditions on the license
(c)	Comply with the financial services laws
(ca)	Take reasonable steps to ensure that its representatives comply with the financial services laws
(d)	Unless the Licensee is a body regulated by APRA—have available adequate resources (including financial, technological and human resources) to provide the financial services covered by the license and to carry out supervisory arrangements
(e)	Maintain the competence to provide those financial services
(f)	Ensure that its representatives are adequately trained, and are competent, to provide those financial services
(g)	If those financial services are provided to persons as retail clients—have a dispute resolution system complying with subsection (2)
(h)	Unless the Licensee is a body regulated by APRA—have adequate risk management systems
(j)	Comply with any other obligations that are prescribed by regulations.

***Source*: Section 912A(1) of the Corporations Act 2001.**

Australian Courts have interpreted the obligation to act in an efficient, honest and fair manner. The terms "fair" and "honest" have previously been identified in this thesis as being ethical principles to which financial advisers should also aspire. The AAT (Felden and Australian Securities and Investments Commission [2003] AATA 301, p. 672), held that because the word "honestly" is used in conjunction with the word "fairly" in the Act, it means a person or corporation who is ethically sound as well as honest (see also Story v National Companies and Securities Commission (1988) 13 NSWLR 661; Re Kippe and Australian Securities Commission (1997) 16 ACLC 190; R J Elrington Nominees Pty Ltd v Corporate Affairs Commission (SA) (1989) 1 ACSR 93).

Accordingly, AFS Licensees are expected to ensure that both they and their advisers meet legal standards of conduct, which at times overlap with ethical obligations in the provision of advice to clients.

3.5.2 The role of compliance frameworks and compliance officers

This section provides an analysis of how financial services organisations ensure compliance with their legal and ethical obligations and the role of compliance officers who have responsibility for this function. This is important to this thesis as it sets the foundation for understanding why the ethical decision making of compliance officers was included in the research.

All AFS Licensees must take reasonable steps to ensure that both the organisation and financial advisers comply with their legal obligations at a minimum. Compliance is therefore defined as an outcome of an organisation meeting its obligations (Standards Australia 2006).

An effective organisation wide compliance program should result in a financial services organisation being able to demonstrate its commitment to compliance with relevant laws, industry obligations, the professional standards by which its employees and agents will be judged and its own organisational standards (Scott & Illako 1995). The Australian Standard on compliance programs (Standards Australia 2006) states that an organisation's approach to compliance therefore should be shaped by its core values and generally accepted corporate governance, ethical and community standards (Standards Australia 2006).

Kennedy – Glans and Schulz (2005) have argued that whilst compliance with the law is a necessary corporate motivator, it does not seek to improve general human excellence and distinction, nor does it guarantee business integrity and protection from all ethical risks (Petrick & Quinn 1997).

Etkind (2005) has proposed that compliance with the law represents a minimum standard of corporate performance that may fail to respond to key stakeholder expectations, such as Regulators and clients (Edwards & Wolfe 2005). For example, whilst there is a legal requirement to disclose alternative remuneration payments made by third party financial product providers to financial advisers for the commercial sale of financial products to clients, the current view of some stakeholders is that these payments represent an inherent conflict of interest that should be avoided by banning such payments (Wilkinson 2003; Tyson-Chan 2006a, 2006b, 2006d; Taylor 2005a).

It is inferred from the literature that for organisations, such as financial services organisations, that face more complex integrity and ethical dilemmas, a process oriented integrity approach to compliance that allows for open dialogue and is shaped by the organisation's core values and generally accepted governance, ethical and community standards (Standards Australia 2006), together with a willingness to accept the proposition that certain conduct is unacceptable is to be preferred (Mulreany & McCormick 2000).

For example, Paine (2003, p.87) encourages a comprehensive approach to the fostering of a climate that encourages ethical behaviour which goes beyond the often punitive legal compliance stance. This approach may foster more creative and responsive strategies and hold organisations to a more robust standard (Kennedy – Glass & Schulz 2005).

Paine's (2003) view is that a legal compliance approach to ethics is rooted in avoiding legal sanction and overemphasizes the threat of detection and punishment in order to channel behaviour in lawful directions. It also assumes people are rational maximisers of self interest and will respond to a personal cost /benefit trade off when making choices. In any event, as Tyler (1990) has demonstrated, obedience to the law is strongly influenced by a belief in its legitimacy and its moral correctness.

Organisations therefore who focus on a legal compliance framework only to ensure they meet both legal and ethical obligations, are viewed by Paine (2003) as implicitly endorsing a code of moral mediocrity for their organisations. Often the repercussions from the lack of integration of compliance and ethical obligations into an organisational culture are significant (Owen 2003).

Responsibility for compliant outcomes is usually assigned to relevant management levels across the AFS Licensee and to roles with titles such as “compliance officer” and “responsible manager”. Within a financial services organisation, a compliance officer is directly responsible for, among other things, the monitoring and supervision of financial advisers to ensure compliance with the law (ASIC 2002a).

It is argued in this thesis that, compliance officers can influence the work environment of financial advisers and the ethical context of the financial services organisation, more so then they can the individual values or moral development of those who work for them.

To be appointed to their role, compliance officers must be able to demonstrate that, amongst other things, they:

- are of good reputation and character;
- have a record of integrity and commitment to compliance;
- have effective communication and influencing skills;
- have relevant knowledge of the financial services and products on which their advisers give advice; and
- understand and can ensure compliance with the obligations under the AFS license;

This implies they have a reputation for ethical behaviour, making them an ideal choice as a role model within the financial services organisation. To understand the context in which compliance officers undertake their role, the primary legal obligations of the AFS Licensee to protect consumer interests and provide financial services in a fair, efficient and honest manner must also be kept in mind (ASIC 2002b).

To meet these objectives it may not be enough for compliance officers to merely implement a legal compliance framework. Goldberg (2000) has argued that an organisation should not only discourage conduct in breach of the law, but should also actively seek to inculcate an avid rejection of such conduct. This notion is extended by the view of Wines and Hamilton (2003) that simply staying within the law is no longer recognised as a legitimate excuse for inappropriate business conduct.

An understanding of ethics and ethical decision making in business and in the provision of financial advice therefore seem very relevant to the role compliance officers play in ensuring financial services organisations comply with an array of legal and ethical obligations. The utilisation of compliance officers as an ethical role model for financial advisory teams should also have a bearing on the AFS Licensee's reputation within the marketplace and the nature of the advice that will be given to clients.

3.6 The Role of the Australian Securities & Investment Commission

This section of the Chapter outlines the role of the primary financial services regulator in Australia, ASIC, in enforcing the obligations associated with the provision of financial product advice. This is relevant to the research undertaken in stage two of this study to determine the primary types of unethical conduct of financial planners and AFS Licensees from the administrative and enforcement decisions of ASIC made between 2006 and 2007.

The financial services industry is one of the most heavily regulated by legislation and it sets minimum standards and applies sanctions or restitution for breaches of the law (Boatright 1999). ASIC's primary function is to generally administer this legislation in Australia (Lucy 2004, 2006c).

Table 3.5 below outlines the number of AFS Licensees in the financial services industry for the financial years 2004 – 2007 (ASIC 2005g, 2006f, 2007e); the number of consumer complaints received by ASIC during that period and the number of administrative and enforcement decisions taken by ASIC against AFS Licensees and financial advisers. ASIC (2006c) has numerous administrative, criminal and enforcement powers to enforce the financial services law under the Act. This includes the ability to enforce the obligations of both AFS Licensees and financial planners through the use of compliance audits, surveillance activities, banning orders, enforceable undertakings and the pursuit of criminal and civil remedies through the courts.

Table 3.5: ASIC enforcement statistics 2004 – 2007.

Annual Report Year	**2004/05**	**2005/06**	**2006/07**
No. AFS Licensee Holders	4135	4415	4625
Public Complaints about misconduct assessed	10,752	12,075	10,681
Banned Financial Advisers	25	27	35
Jailed financial advisers	2	2	1
Compliance checks undertaken	703	837	475
Enforceable undertakings/Court orders	3	8	8
License conditions imposed	0	1	0
Licenses cancelled	0	0	2

***Source*: ASIC Annual Reports 2005(e), 2006(f) and 2007(f).**

The data in the table indicates that in 2004/05 there were 4135 AFS Licensees, increasing to 4625 by 2006/07. Between 1 July 2004 and 1 July 2007, ASIC received 33,508 complaints from the public about misconduct in financial services. During the same period ASIC conducted 2015 compliance checks of AFS Licensees and 89 financial advisers were banned by ASIC as a result of unlawful conduct, five of whom also received jail terms. In addition ASIC conducted 2015 audits.

The consequences of failure by financial services participants to comply with the law are serious (Lucy 2006a; ASIC 2006c). For example, ASIC may vary, suspend or cancel an AFS License where it believes the AFS Licensee has not or will not perform its duties efficiently, honestly and fairly. The statistics show that this power is used rarely, with only two licenses cancelled for the relevant period and one AFS Licensee having conditions imposed on their license.

Other enforcement action which may be taken by ASIC includes the ability to obtain a voluntary enforceable undertaking from an AFS Licensee or an adviser, to refrain from non compliant conduct and implement rectification action (ASIC 2006c, 2006d). The analysis outlined in Appendix D.4 of this thesis highlights that between 2004 and 2007 this power was used on 19 occasions.

Financial advisers may also be the subject of a banning order if their conduct has caused non compliance with the Act and/or they have failed in the performance of their duties to comply with the Law (McLachlan v ASIC [1999] FCA 244). Appendix D.3 of this thesis contains a list of all ASIC banning orders for the relevant period against financial advisers.

Kennedy – Glans and Schulz (2005) have pondered whether regulatory compliance motivates improved corporate behaviour. Coady and Sampford (1993) have emphasised the importance of generating ethical standards from within the organization instead of relying on regulation to improve business conduct. They have suggested that the answer might lie in integrating and combining industry standard setting, legal regulation and organisational codes of behaviour.

Francis (2000) and Baxt (1993) have argued that self regulation will seldom be an adequate substitute for government regulation. However self regulation can serve as a means of developing rules that may eventually be given legal force (Tyler 1990). In other words, minimum legal standards and aspirational professional standards can be complementary aspects of regulatory control (Coady & Sampford 1993).

ASIC has the ability to accept complaints about inappropriate behaviour from members of the public and other stakeholders. As shown in Table 3.5, in 2005 and 2006 ASIC assessed 12,075 complaints from the public about alleged misconduct by financial advisers or AFS Licensees and acted against 102 schemes or companies for illegally raising funds or running investment schemes involving around 5,000 investors and $788 million (ASIC 2006f).

However, the law provides other avenues for consumers to make complaints about inappropriate financial advice and be recompensed, without having to resort to litigation. The next section of this Chapter will examine the role of externally approved dispute resolution schemes in the financial services sector and the role of the FOS in particular.

3.7 The Role of the Externally Approved Dispute Resolution Services

Within the financial services industry, consumer protection mechanisms for financial product advice and services can be found in numerous statutes, including the Act, the ASIC Act, the Trade Practices Act (Federal) or the state based Uniform Consumer Credit Codes and associated regulation (ASIC 2007a).

For financial planning firms, these mechanisms have traditionally included internal dispute resolution, compulsory membership of an External Dispute Resolution Scheme and professional indemnity insurance. AFS Licensees are required to belong to an ASIC approved EDR scheme as a part of their licensing conditions (ASIC 2007c) so that consumers can gain access to compensation awards for financial losses suffered as a result of inappropriate financial advice.

Although alternative dispute resolution has its limitations, it can deal with many consumer complaints at lower cost to traditional court action. In addition, there does appear to be widespread stakeholder support for these dispute resolution mechanisms (Australian Productivity Commission 2008).

During the course of this study, the Financial Industry Complaint Service (FICS) was the EDR scheme that assisted in resolving the majority of complaints made by clients against members of the financial planning industry. The FICS jurisdiction encompassed life insurance, pooled superannuation trusts, funds management, financial and investment advice, stock broking and sales of financial or investment products (FICS 2007b). As at the end of 2004, FICS had over 2,500 members (FICS 2005).

The merger of the Banking Financial Services Ombudsman, the FICS and the Insurance Ombudsman Operations on 1 July 2008 brought within the one body, dispute resolutions services for up to 80% of Australian banking insurance and investment disputes (FICS 2007c). The merged scheme is the Financial Ombudsman Service (FOS). It is one of eight ombudsman schemes in the financial services industry (Australian Productivity Commission 2008). As a result this thesis refers to the scheme under its new title, FOS, except for the citing of some references.

The FOS process aims, in the first instance, to resolve complaints by mutual agreement between the parties (FOS 2008a). Approximately 70% of complaints that FOS investigated during the period 2006 to 2007, were resolved by negotiation and conciliation, following an investigation of the facts by a FOS investigator. If resolution was not possible, the matter was referred to a Panel or an Adjudicator who, pursuant to the FOS Rules, has the ability to make formal determinations which are binding on the Member and the client (FOS 2008b).

FOS Adjudicators dealt with claims up to $30,000 and FOS Panels dealt with claims over $30,000 and up to $150,000 (FICS 2007b). In terms of the amount of loss or damage identified by the FOS panel, the objective was to restore the consumer to the position that he or she would have been in but for the conduct of the financial adviser (FOS 2008a; Paige v SPI Limited and anor [2001] NSW SC 627).

In terms of making determinations in financial planning complaints, the FOS Panel must be satisfied that a breach by a financial adviser of a duty of care or obligation owed under the Act has occurred and caused the loss claimed by the consumer. Further, in general terms, the loss itself must have been of a kind which was reasonably foreseeable, whether the liability of the financial adviser derived from a breach of duty or a breach of contract or statute (Foxeden Pty Limited v IOOF Building Society Limited and anor, VSC (2006) 47; March v Stramare Pty Limited [1991] 171 CLR 506; The Austmarine Pty Limited [2005] SASC 147; and Ali v Hartley Poyton Limited [2002] VSC, 113).

It is argued in this thesis that consumer complaints to FOS form a microcosm of the ethical and professional issues faced by financial planners in the provision of advice to clients and are therefore of great assistance in determining the types of unethical conduct by financial planners, as explored in stage two of this research.

3.8 Other Stakeholders

The last section discussed the role of EDR schemes as one stakeholder in the financial planning sector. This section identifies the other stakeholder groups that have expectations for corporate and ethical conduct in financial planning.

This section links to this thesis in two ways. First, Dal Pont (2003) has argued that professional judgment is linked to the dynamic interaction with a broad range of stakeholders in a professional's life. Secondly, it is linked to the notion outlined in Chapter 2, that organisations need to recognize the needs and expectations of a wider range of stakeholders, in addition to shareholders.

Stakeholder theory, a normative theory of business ethics (Beauchamp & Baine 2004), argues that effective management of a company requires the balanced consideration of and attention to the legitimate interests of multiple stakeholders with legitimate claims on the organisation and the notion of corporate social responsibility. The objective is to foster commerce which is "accountable, ethical and humane" (Epstein 1999 p.253). Kobeissi's research (2003) has demonstrated that a firm can enhance the interests of relevant stakeholders without having a detrimental effect on shareholder performance.

Whether specific corporate behaviour is right or wrong, perceptions of ethical or unethical conduct are also usually determined by stakeholders. Some have contended (Dellaportas *et al.* 2005) that stakeholder support for an organisation depends on its credibility and reputation. Credibility in turn depends on the trust stakeholders have in the organisation's activities and that trust depends on the values underpinning those activities (Dellaportas *et al.* 2005).

Although these groups are not always right, their judgments influence society's acceptance or otherwise of a business and its activities (Weiss 2003). As Kennedy – Glans and Schulz (2005) have argued, corporate integrity is not a fixed state and ethical and legal goal posts are often moved in response to stakeholder expectations.

This thesis has adopted Kitson and Campbell's (1996) assertion that stakeholder theory may provide a different approach to the problem of defining and developing ethical behaviour in financial services organisations.

Freeman (1984) has defined stakeholders as any group or individual who can affect or is affected by the achievement of an organisation's objectives, such as government, political or activist groups, consumers, unions, employees, trade associations, competitors and suppliers. Kitson and Campbell (1996, p.108) and Handy (1995) concur that this is a wider group than just shareholders of the organisation.

There are numerous stakeholders whose expectations of the professional and ethical conduct of financial planners ought to be considered (Allen Consulting Group 2008). This study has focussed on:

- the organizations that employ financial planners;
- the consumers/clients who use their services;
- the federal government and regulators who enact, enforce and administer the relevant environment in which financial planning is based;
- the Australian public at large which has an interest in the provision of accessible, affordable and ethical financial advice;
- the EDR scheme, FOS, that handles the majority of complaints from consumers about the services provided by financial planning organisations and their advisers; and
- the professional associations who represent the financial planners.

Hosmer (1991) has identified five levels of managerial responsibility owed by a corporation to these stakeholders, one of which is ethical responsibility. This includes the distribution of benefits and the allocation of costs or harms across the firm, which should be distributed in a way that stakeholders would see as right, proper and just, thus ensuring their continued support.

Whilst financial planners might owe different levels of responsibility to certain stakeholder groups, ethical and professional behaviour aligned to stakeholder expectations can play a role in protecting consumers so they can make rational and informed investment decisions (Francis 2000; Edwards 2006).

3.9 Current Issues within Financial Planning

3.9.1 Recent examples of unethical conduct in financial planning

Section 3.9 of the Chapter discusses some of the recent issues that industry and media commentators have contended have affected the ethical decision-making of financial planners and AFS Licensees and tested the professional and legislative frameworks under which they operate.

The issues outlined in Section 3.9 have informed the study's analysis in stage one of the research of the primary types of unethical conduct by financial planning participants; the focus group session conducted in stage two of the study testing the perceptions of financial planning participants of the current ethical issues facing them in the provision of advice to consumers; and the development of case studies and survey questions for the main research questionnaire used in stage five of the study.

This section informs in part the subject choices made for the FAIT instrument case scenarios used in the main research questionnaire. It is also used to compare and contrast against the data from stages two and three of the research.

Between 2004 and 2007 there was a spate of corporate collapses and investor scandals in the Australian financial services industry. Financial planners and AFS licensees were regularly linked to these matters as a common source of investment advice to consumers. The list includes Westpoint (Swift 2006; ASIC 2006c), Australian Capital Reserve and FinCorp (ASIC 2007b), Chartwell (Draper 2008), Opes Prime (Wilmot 2008; Armstrong 2008) and Basis Capital (Money Management 2009b).

These failures also highlight some of the common causes of ethical dilemmas within the financial planner/ client relationship previously identified by Longo (2000), including a lack of understanding by both parties of the differences in the values and beliefs held by the financial planner and the client, a lack of direct and clear communication with clients including identifying and understanding their needs and objectives, inadequate explanation of the reasoning behind the advice given and the failure to ensure confident and informed decision-making by clients, through the provision of all relevant information required to decide whether to proceed with the advice given.

3.9.2 Westpoint

The Westpoint Group of companies were involved in the development of residential and commercial properties and comprised 17 group companies. ASIC (2006g) has identified a number of property investment schemes operated by those companies which are itemised in Appendix B.2.

To raise funding for these investments, Westpoint offered mezzanine financing to investors via the issuing of promissory notes, through financial advisers and some unlicensed entities. The minimum investment was $50,000 (Sydney Morning Herald 2006, p.6). Mezzanine financing is frequently used in property transactions and construction, infrastructure funding and finance structures for mining and resource projects. Mirvac (2006) has estimated that in 2005 the level of mezzanine debt lending in Australia for property construction alone was around $1.5 to $2 billion, or 5% of the total construction lending market.

Mezzanine financing is defined by Mirvac (2006) as financing that usually sits between the first mortgage held by Banks and other lenders on a project (which may make up to 60% to 80% of total development costs) and equity investors (around 10% of the total development costs) who have very high levels of risk, but who can be compensated by generous dividends, capital growth or both, if the project is a success.

The collapse of the Westpoint group of companies in 2006 has led to a spate of regulatory and common law action. In November 2007 ASIC (2008a) announced proceedings under Section 50 of the ASIC Act against directors of Westpoint companies, seeking compensation for breach of director's duties in the amount of $245 million. It has been alleged in these actions that the Westpoint collapse resulted from a combination of director misfeasance, auditor incompetence, misappropriation and misallocation of investors' funds and misrepresentation by research houses as to both the nature and the risks of the investment.

Further, since November 2005, ASIC has commenced 25 proceedings against companies in the Westpoint group, ten of which have concluded. In addition, six different liquidators have been appointed by courts and creditors to over 17 group companies (ASIC 2007d). ASIC is also investigating the actions of financial advisers that were involved in promoting and providing advice on Westpoint. As of 4 September 2008, ASIC advised that 18 licensed advisers and three non licensed advisers had been banned as a result of action taken over Westpoint (ASIC 2008c).

In addition, law firm Slater and Gordon has filed class actions on behalf of some 2000 investors against financial planning firms, which recommended investment in the mezzanine financing schemes associated with Westpoint (Kerr 2007). These actions seek over $200 million in compensation. The allegations raised against the financial planners (CCH Australia 22 Feb 2006; Jacob 2008) include:

- a failure to ensure clients understood the nature of the investments and the risks involved;
- advising clients that the "promissory note" was capital guaranteed and secured against specific property projects (when it was not);
- failure to disclose commissions of 10 to 12 per cent for recommending Westpoint schemes (instead of the typical 2%); and
- presenting the investments as low risk.

The FOS (FICS 2007d) has not been able to handle any investor complaints about the actions of the Westpoint Group of Companies or its directors or any unlicensed financial adviser or unlicensed company that purported to give advice in relation to the promissory notes or the schemes, as all of these complaints fall outside its jurisdiction.

However, as at 14 September 2007, FOS had received 399 written Westpoint complaints against financial advisors and had taken 551 phone enquiries (FICS 2008).

It should be noted that not all of those who invested in Westpoint did so on the advice of a financial planner or indeed a person licensed under the Act. Many were also introduced via mortgage brokers, promoters and unlicensed advisers and some of the enforcement action taken by ASIC has been against unlicensed entities, such as the Kebbel Bank (The Australian Newspaper 2007; ASIC 2006e).

Some financial planners have also alleged that Westpoint misrepresented the nature of the guarantees given by the company about investments in the Property Schemes (Sydney Morning Herald 2006) and that they were unaware that investors' money was pooled and used by Westpoint for various purposes of the group, instead of going to individual property developments projects.

However, ASIC (2008a) has alleged that in selling products with the risks and financial characteristics of the Westpoint promissory note, some AFS Licensees and financial advisers did not comply with their obligations in the provision of financial advice to investors.

The ramifications of the Westpoint collapse for financial advisers particularly in relation to the conduct and decision-making of financial planners will continue for some time. The Westpoint collapse is therefore an interesting case study for this research given the extent of the litigation that has arisen from it and the size of the losses suffered by investors.

3.9.3 The provision of superannuation advice

Since 1 July 2005, the Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2004 (Super Choice) has provided eligible employees with the opportunity to direct their superannuation contributions into their chosen fund. Lucy (2006d, p.4) has acknowledged that this is one of a number of deliberate policy initiatives by the Australian Government to encourage funding for retirement to achieve less reliance on social welfare.

Many consumers have therefore turned to financial advisers for professional advice in relation to Super Choice. There has therefore been significant regulatory and public interest in this advice to ensure regulatory and policy objectives related to superannuation are met (Sampson 2006; Sherry 2008a; Taylor 2005c).

ASIC has completed two surveillance and shadow shopping campaigns (ASIC 2003a, ASIC 2006b) to monitor the extent to which financial advisers were complying with their legal obligations in relation to financial advice. Both campaigns identified numerous unethical practices (Costa 2004; ASIC 2005j; Kelly 2005a).

The 2006 campaign was conducted by Roy Morgan Research (ASIC 2006b). Its purpose was to assess whether financial advice given to consumers after the introduction of Super Choice was compliant with the law. The survey assessed 306 examples of advice from 259 individual advisers, given between June and December 2005. These advisers represented 102 AFS Licensees (ASIC 2006b).

The survey identified several key areas where the provision of superannuation advice and advice to self managed superannuation funds (SMSF) to clients did not meet the requisite standards (ASIC 2005g). These areas have been summarised in Table 3.6 below. Column 1 of the table outlines the nature of the legal breach identified by ASIC during the survey. Column 2 highlights the conduct expected of the adviser. Column 3 describes the survey results and Column 4 identifies the link between the legal breach found by ASIC and the commensurate ethical obligation from Table 3.3 above.

The table illustrates some of the challenges facing financial advisory firms in the provision of superannuation advice (FPA 2005a, 2006f; ASIC 2006e). These challenges included the management of the conflicts of interest associated with the sale of in-house financial products prior to the provision of advice and the requirement to convert verbal advice into writing. The table also highlights issues in relation to making recommendations supported by sound reasoning and communicated in a clear, concise and effective manner (ASIC 2006b; Kelly 2005c).

Table 3.6: Key issues arising from the ASIC (2006) Survey on Superannuation Advice.

Rule	Requirement	Survey Result	Ethics Link
Know your client	Has the adviser investigated and considered the client's personal and financial circumstances before the provision of advice?	In approximately 15% of cases, advisers did not know enough about their client's circumstances or goals prior to making recommendations.	Competence
Reasonable basis for advice	Was the advice appropriate to the client's circumstances and needs?	Advice was given which was not reasonable and did not suit the needs of the client.	Diligence/ Fairness
Switching financial products	In comparing funds, did the adviser demonstrate knowledge of the benefits and costs of both the existing and recommended product?	Advice to switch funds often lacked credible reasons and risked leaving the consumer worse off.	Competence/ Diligence
Disclosing the consequences of switching products	Were all costs and benefits of the switch disclosed under Section 947D of the Act?	Advisers failed on some occasions to clearly disclose all charges, costs and benefits of the switch.	Competence
Statements of Advice ("SOA")	Advisers must provide written advice that contains all necessary information required to be disclosed to the client.	In 46% of cases, advisers failed to give an SOA. However, in one fifth of cases verbal advice to the client to stay in their existing fund was reasonable in the circumstances.	Diligence/ Fairness
Conflict of interest	Conflicts of interest must be identified, assessed and managed, including disclosure to the client where necessary.	Advisers were three to six times more likely to give unreasonable advice when they received higher remuneration if the advice was followed, or if the recommended products were associated with their AFS Licensee.	Objectivity/ Integrity

***Source*: Developed by the researcher**

These findings have resonance in the context of the public debate on whether the provision of superannuation advice to members of the public is adequate to assist clients to make informed decisions about which superannuation fund to invest in (Sherry 2008a; Power 2006; Kelly 2005b); whether or not to establish a self-managed superannuation fund (Bruining 2008); the increasing sophistication of financial markets in which superannuation funds themselves can invest (Lucy 2006b, 2006c) and the fees and costs associated with such funds (Australian Government 2008; Parliamentary Joint Committee on Corporations and Financial Services 2007; Whitely 2008).

3.9.4 Conflict of interest and industry remuneration structures.

This section focuses on the actual and perceived conflicts of interest for financial planners arising from the remuneration and ownership structures of the financial services industry.

ASIC Regulatory Guide 181 (ASIC 2006a), defines a conflict of interest as a circumstance where some or all of the interests of clients to whom an AFS Licensee (or its representative) provides financial services, are inconsistent with or diverge from, some or all of the interests of the Licensee or its representatives. This includes actual, apparent and potential conflicts of interest.

Argandona (2004) has suggested that conflicts of interest raise ethical dilemmas because to act against the interests of the client causes an injustice, is inconsistent with the agent's moral obligations and allows an adviser to obtain an undue benefit through the exercise of a profession or a business.

Agency theory has been used previously as an appropriate framework to explain the conflicts of interest associated with remuneration structures (Argandona 2004). Pursuant to this theory, the payment structures of the financial services industry may force a financial planner to place the agency relationship with their firm or third parties, before their professional obligations to their clients.

Jansen and Von Glinow (1985) have also observed that organisational reward systems may influence behaviour in ways that contradict the dominant and communicated ethical norms of the organisation, thus establishing a counter norm, such as to do whatever it takes to get the job done. Goal setting associated with the setting of pecuniary targets can motivate unethical behaviour (Schweitzer, Ordonez & Douma 2004). Again, this may cause some confusion or conflict in the role of the financial planner and their primary relationship with their client (ASIC 2004a, 2004f; Bailey 2004; Kohler & Clout 2003).

Conflicts of interest deserve attention because they are widespread across numerous professions such as the law (Cull 2002; Shrivington 2003; Australian Law Reform Commission 2007) and accounting (Brown 2002, ICAA 2007b). They also raise many issues for ethical decision making within financial services organisations and for the financial planning profession both in Australia (Johnston 2004; Lucy 2006b; FPA 2006e) and internationally (Certified Financial Planning™ Board of Standards 2007b; Financial Services Authority 2007a; Gill 2008).

Conflicts of interest are also a reputational issue for the financial services industry with current debate about whether business and remuneration models need to be revised so as to avoid the conflicts of interest associated with them (Collins 2007c; Egan 2006).

Whilst there are numerous real and potential conflicts of interest that may be encountered in the provision of financial advisory services, the primary focus is currently on the conflicts associated with remuneration practices (Fielding & Tyson-Chan 2005; FPA 2005b, 2006a, 2006c). The conflicts of interest associated with remuneration and reward structures formed a key element of the research undertaken in this study as remuneration and reward structures were identified in Chapter 2 as being one of the contextual factors that influences ethical decision making.

There are numerous remuneration models that have been adopted by financial planning and accounting firms in Australia. At one end of the spectrum there is full fee for service, where clients pay an agreed fee for services rendered by a financial planner (Kelly 2005d). Often this is associated with a full rebate of any commissions paid to the AFS Licensee from financial product manufacturers back to the client. Fees may be charged on the basis of time expended, the complexity of the advice or the value of the assets advised upon, or a combination of both (ICAA 2007a). Even if primarily fee based, the planner may receive payments, commissions or incentives from third parties for purchasing investment products on behalf of clients (ASIC 2006b).

At the other end of the spectrum financial planners may be remunerated solely by commissions paid by financial product manufacturers following a purchase of a product recommended by the adviser (D'Aloisio 2007). The commission can be paid upfront or by way of a trailing commission, which is paid for as long as the client holds the investment. The commission model is usually associated with the cost of the financial advice being bundled up with other costs to form a single percentage cost for the client. Commissions received on the sale of an investment product can be rebated to a client by the adviser (Financial Planning Magazine 2004a).

The receipt of commission payments may put a financial adviser in a position of conflict, or an appearance of conflict (Barrett 2008; Kelly 2006a; Brinsden 2008). That conflict exists at several levels. The first level is that a third party is paying the remuneration, not the client. The second level is that a product must be sold to receive remuneration in the first instance. The third level of conflict is that advisers may be tempted to recommend the product that pays the highest level of remuneration (ICAA 2007b; Kohler 2008).

Conflicts of interest associated with the Super Choice environment in Australia have led to allegations of wholesale switching of employees from corporate superannuation funds to retail funds, without due consideration of the fees associated with that action (Dickens 2005).

It has been estimated that an additional 1% each year in fees can amount to up to 20% from the retirement benefit over 30 years (Australian Government 2008). ASIC (2006b) identified that 48% of cases reviewed by them in their superannuation advice survey, involved an actual conflict of interest associated with adviser remuneration. Advice that was clearly or probably non compliant was about six times more common when the adviser had an actual conflict of interest related to remuneration.

ASIC Regulatory Guide 181 (ASIC 2006a) does not articulate a correlation between conflicts of interests and "bad" advice. However, these findings draw a direct link between advice that was clearly or probably non compliant and the remuneration and commission structure to which the adviser was subject.

There is evidence of a national trend towards a fee for service model and away from commission based models (Manning 2008). This trend is consistent with leadership by some professional associations to pronounce a preference for such models (CPA Australia & ICAA 2005), to ensure that fees for advice are separately identified from other fees (FPA 2006d), to ban access to certain alternative remuneration payments and benefits (IFSA & FPA 2004) and to insist on the adviser and client negotiating fees for service and the mechanism for the collection of payment, prior to any service being provided (FPA 2006d).

Further, some Codes (IFSA & FPA 2004; CPA Australia & ICAA 2005) prohibit the acceptance of free travel and accommodation to conferences based on the volume of sales of a manufacturer's product, computer hardware or office accommodation, cash or gifts over the value of $300. In applying the test outlined in ASIC Regulatory Guide 181 (ASIC 2006a), some industry associations have recognised that mere disclosure of the conflicts of interest arising from alternative remuneration benefits, for example, will not be enough.

The FPA (2006d) Principles on Conflict of Interest, also state that where it is appropriate to recommend a financial product, FPA members should only offer products which suit the needs of the client and do not bring the industry into disrepute.

There appear to be two countervailing views within the industry itself on remuneration structures. One is that there is a fundamental structural problem within current remuneration models and their reliance upon the sale of financial products (or the existence of assets on which to charge a fee) in order to generate remuneration from third parties (ICAA, 2007a, 2007b).

The counter view is that the focus should be on providing consumers with the opportunity to choose the method of remuneration by which their advisers should be paid. This view argues that where remuneration models give rise to conflict of interests, such conflicts can be properly resolved by disclosure and transparency (ICAA 2007b). The Parliamentary Joint Committee on Corporation and Financial Services (2007) which undertook the Federal Parliament Enquiry into superannuation also recognised that consumers should be able to choose how they remunerate their adviser, including commissions, provided they are well disclosed and managed.

Others believe the answer lies in solving both real and perceived structured conflicts in the industry and the mere disclosure and transparency does not address this (Brinsden 2008). For now, the ASIC Chairman has stated that different remuneration arrangements are acceptable (D'Aloisio 2007).

Internationally, remuneration practices and associated regulations for financial advisers vary (New Zealand Institute of Chartered Accountants 2007; Financial Planning Services Board 2006). There appears to be no preference for fee for service models, except in Japan and at the higher service end in the USA. Financial planners registered under the Investment Advisers Act mostly avoid (90%) the use of commissions (Certified Financial Planner™ Board of Standards 2007b).

Only India appears to have banned the receipt of certain commissions, such as commissions associated with mutual funds and insurance sales (D'Aloisio 2007). The focus internationally remains on disclosing the compensation arrangements offered and in allowing clients to choose their own arrangement (Certified Financial Planner™ Board of Standards 2007; N.Z Institute of Chartered Accountants 2007). Yet, there appears to be international recognition that some remuneration practices may lead to unresolved conflict of interest and inappropriate or unethical advice (NZ Institute of Accountants 2007).

3.9.5 Gearing and margin lending practices

Another area of financial advice that has recently been in the spotlight has been gearing and margin lending advice. For the purposes of this thesis the term "gearing" means to borrow money against existing assets in order to invest (FPA 2009). A margin loan is a loan facility that allows the borrower to invest the moneys raised from the loan, usually into a share or equities portfolio. It is subject to a margin call or request for moneys to be paid against the loan whenever the value of the share portfolio falls below the loan amount (McCormick 2009).

Media commentators and other stakeholders have voiced recent concerns with this type of advice, including whether gearing and margin lending facilities are suitable for all clients and whether clients are able to repay debts from these loans when the financial markets suffer downturns (Taylor 2009).

These concerns have formed part of the debate over the recent collapse of the Storm Financial Group, which went into voluntary administration in January 2009 and which is likely to be the subject of legal action on behalf of more than 800 former clients in relation to negligent financial and margin loan advice (Taylor 2009).

ASIC has estimated that of 14,000 Storm clients, 3000 had margin loans (Beaman 2009). The advisory model was to recommend that these clients leverage existing assets and gear (or borrow against existing assets) into Storm – branded indexed financial products, developed in conjunction with some fund managers. This borrowing was usually facilitated through a margin loan and the establishment of a variable loan account and a cash account facility (Beaman 2009).

With the collapse of the global financial markets in late 2008 some of these clients began facing margin calls which they could not repay. The FPA (2009) has made a preliminary assessment of adviser conduct in relation to the advisory process adopted by Storm Financial and found numerous ethical failures including:

- failure to understand margin lending/gearing strategies and their application to the client's objectives and circumstances;
- failure to advise the client of the risks associated with such a strategy;
- clients misunderstanding documents and written advice given to them to sign;
- failure to consider the client's capacity to repay margin calls or debt from loans when developing the strategy; or
- to devise an appropriate exit strategy for the client in the event of a market fall or other factors;
- loan to value ratios well above industry averages at up to 85%; and
- fee structures associated with the financial advice given (upfront and ongoing) well above typical industry charge rates.

The current spotlight on gearing and margin loans as a strategy to assist investment into the market by retail clients is well deserved (McCormick 2009). It also provides an interesting area of financial advice to research in this study in terms of the ethical decision-making of advisers. The current round of government activity to regulate margin lending and ensure there is transparency around commissions and other remuneration arrangements relating to them, may assist in preventing consumer losses in the future (Taylor 2009). However, the evidence suggests that current legislative and ethical obligations associated with the provision of financial advice in these areas are not being met by advisers (Wood & Smith 2005; Westerman & Housten 2006; Tyson-Chan 2007).

3.10 Summary

This Chapter has considered the practical context of the study and some of the current significant ethical themes in professional and business ethics facing financial planners and AFS Licensees in the provision of financial advice to clients.

The Chapter examined how the financial services industry operates in practice and the complex legal and ethical relationship that exists between the entities licensed to provide advisory services to consumers, the agents who provide the advice and the officers whose role it is to ensure compliance with legal and ethical obligations as those services are performed.

The Chapter outlined the legal and ethical obligations that apply to the provision of financial advice. The primary ethical obligations of financial planners who are members of a professional association were also discussed. These ethical obligations formed the benchmark against which the conduct of financial planners, who were the subject of determinations by external decision makers during 2006 and 2007, were judged in stage two of the research.

It was argued in this Chapter that financial planners are also subject to fiduciary obligations in certain circumstances. It was illustrated that these obligations raise the standard of conduct and decision-making expected of financial planners well above the minimum standards expected by the law.

So as to provide an additional context for stage two of the research, the Chapter then outlined the primary mechanisms currently in place to protect consumers from unlawful and unethical behaviour when seeking financial advice. The Chapter discussed the role and decision-making powers of the financial services regulator ASIC and the EDR Scheme that hears and determines the majority of consumer disputes within the industry, the FOS. It then identified and considered the expectations that numerous stakeholders have for financial planners in their role.

The Chapter then elaborated on some of the current significant ethical themes facing financial planning participants and recent examples of unethical conduct by financial planners. These themes were used in the case scenarios developed for the FAIT instrument. They were also compared to the data arising from the review of consumer complaints and the focus group session, as outlined in the discussion in Chapter 7 of this thesis.

These themes included a discussion of the unethical conduct associated with financial advice provided to consumers to invest in the Westpoint group of companies. This advice became a unique case study for this thesis, given the extent of the litigation that has arisen from it and the size of the losses suffered by investors.

Themes associated with conflicts of interest and the current remuneration structures within the financial services industry were also discussed. The disclosure, management and control of these conflicts forms the basis of an ongoing debate both in Australia and internationally as outlined in the Chapter, with a preference towards a fee for service model emerging. However, ethical issues associated with the influence of third party payments on the objectivity of the adviser and whether or not simple disclosure of some benefits is enough to allow a consumer to make informed decisions about investment recommendations is an ongoing theme in this thesis.

The ethical complexities associated with the provision of financial advice on superannuation products and margin loans were also illustrated in this Chapter. Recent evidence of unethical decision making by financial planners in these areas was outlined.

Again, both areas of financial advice formed the basis of a case scenario in the FAIT instrument.

In summary, this Chapter has highlighted that to reduce the ethical, legal and regulatory risks associated with the current environment highlighted by this Chapter, AFS Licensees, financial planners and their compliance managers need to be able to:

- identify the ethical issues that may be faced in the provision of advice to clients;
- understand how to resolve these dilemmas (including an understanding of stakeholder and industry expectations of their behaviour); and
- understand the mechanics of ethical decision making.

Further, financial planning organisations must develop an understanding of the ethical culture within their advisory businesses and how that impacts on the ethical decision-making of their advisers and other staff.

The next Chapter outlines the conceptual framework of the study.

CHAPTER 4: THE CONCEPTUAL FRAMEWORK

> *Typically compliance, ethics, governance and risk are treated as separate silos that sit ponderously above and separate from the organisations' business objectives, systems and procedures. This is inefficient and ineffective.* (*Australian Compliance Institute, 2005, p.2).*

4.1 Introduction

The preceding chapter provided a context for why the study of ethical decision-making in financial planning is important. As discussed in Chapter 3, the ethical, legal and regulatory risks currently associated with the provision of financial planning advice are significant. One proposition extrapolated from the research outlined in Chapter 2 was that financial planning participants require a high level of ethical reasoning to engage in ethical decision making so as to meet these risks and act according to the ethical standards now expected of them by stakeholders. This proposition provides a catalyst for this study.

Chapter four develops both a conceptual and theoretical framework for this and other propositions to be studied. This Chapter initially summarises the key theories emanating from the literature review that are relevant to this study. It defines the constructs and variables to be studied in this research. It also provides an exposition of the relationships and associations between these constructs and variables, as identified from the previous research, together with a justification for why they influence this study and a description of the nature and direction of the relationship.

This is followed by details of the research design, which includes the derivation of the study's aims and research objectives. The Chapter also outlines the formulation of the research questions and the hypotheses posed in this environment, to test the validity of the relationships and associations posited in the Chapter.

4.2 A summary of the Key Theories

This study is designed to enhance knowledge in particular areas of applied professional and business ethics as each relates to the ethical decision-making by financial planners and compliance officers in the provision of financial advice to consumers of financial services.

Previous research has highlighted that ethical decision making is predicted by numerous factors (Aquino & Becker 2005). The question of why and how individuals make ethical decisions on their own and within a work place environment, such as a financial services organisation, is therefore complex.

In ethical decision making, the focus is also not always on the action itself (Weber 1993). What matters more is the reasoning used by the professional which sits behind the decision or action taken. It is this concept that was a focus of this study.

Gephart, Harrison and Trevino (2007) and others (Ishida 2006; Boyd & Levine 1990) have concluded that cognitive moral development is the strongest dispositional predictor of unethical behaviour. This conclusion is supported by the research of Abdolmohammadi and Sultan (2002) which found that ethical reasoning and ethical behaviour have a positive correlation. Ethical reasoning in some studies has explained 10%-15% of the variation in ethical action (Thoma 1994, p. 201).

Bigel's (1998) study of the level of ethical reasoning amongst USA financial planners was based on Kohlberg's (1976) six stages of cognitive moral development (Bigel 2000). Kohlberg (1969) identified a total of six stages across three levels of ethical development: the pre-conventional, the conventional and the post conventional, based on the premise that ethical maturity evolves and can be measured by the different ways in which people organise and structure their social and moral world and associated experiences. At stage one ethical judgement is motivated by a desire to avoid punishment. At stage six, judgement is motivated by the individual's own conscience. Studies have shown that few individuals progress to the post conventional level (Weber & Green 1991), with the majority of individuals motivated by either a need to avoid isolation from a group or to abide by governing laws (Kelloway *et al*. 1999).

It was recognised in Chapter 2 that the literature contains many criticisms of Kohlberg's work. However, Kohlberg's (1969) model of moral development forms the foundation of Bigel's (1998) study and underpins the DIT and DIT 2 instruments used to measure ethical reasoning in this study.

In terms of individual demographic factors that may influence ethical reasoning and therefore decision making, Bigel's study (1998) suggested that cognitive ethical reasoning increases with age, education level and experience. This is supported by the research of Hitt (1990), drawing on the work of Jaspers (1955) and Freedman (1990), which has suggested that the age of an individual is positively related to the individual's level of integrity and that moral development continues to grow well beyond adolescence, being influenced by age and experience.

The literature also discussed whether differences can be discerned between the ethical reasoning and decision-making of men and women. Some researchers, such as Ruddick (1989) and Held (1993) have argued that men and women have different notions of morality and apply them in different ways when making decisions. These researchers have contended that the differences between men and women can be demonstrated through links to two different ethical theories; the ethics of care usually associated with Gilligan (1982) and based on responsiveness to others, and the ethics of justice linked to the work of Rawls (1971) and based on the equal distribution of social goods such as liberty, opportunity and income, unless an unequal distribution would favour the disadvantaged. Dawson (1992) has also argued that the feminisation of certain sales professions, such as financial planning, may also change its ethics.

The literature review identified very few studies of the cognitive level of ethical reasoning of financial planners. This is a relatively under-researched area. For example, whilst there have been numerous studies of the ethical reasoning of other professionals such as accountants (Thorne 2000; Armstrong 1984; Arnold and Ponemon 1991; Porco 2003), business students (Wilhelm & Czyzewski 2006), medical students (Munro, Bore & Powis 2003), journalists (Westbrook 1994), engineers (Borenstein et al. 2006) and nurses (de Casterle, Rulens & Gastrams 1998; Thissen 2003), only financial planners in the United States seem to have been the subject of a specific study examining cognitive levels of ethical reasoning (Bigel 2000).

This study replicates Bigel's (1998) study as it applies to the statistical relationships between the attributes of the individual decision-maker and their cognitive ethical reasoning.

As discussed in Chapter 2, the measurement of ethical reasoning has been undertaken in many different forms. Rest's (1984) Moral Judgement Scale as used by Bigel (1998) and the DIT and DIT 2 instruments (Rest *et al.* 1999a) are the most widely used (Hansen and Morrow 2003).

The underlying structure of ethical reasoning assessed by the DIT 2 consists of the three Kohlbergian developmental schemas: personal interest or pre-conventional development, maintaining norms or conventional development and post conventional thought (Rest *et al.* 1999b). Using the DIT 2 instrument, respondent's responses are analysed to measure two scores: the degree to which post conventional thinking is prevalent (the P score); and the degree to which post conventional thinking is present and pre conventional thinking is absent (the N2 score) (Rest *et al.* 1999c). In this instance, the score or index is the overall number used to represent a respondent's ethical development (Rest *et al.* 1997). Accordingly, the higher the individual's score the more the subject made ethical judgements akin to Kohlberg's higher levels of moral reasoning.

In addition to moral comprehension, the DIT and DIT 2 have also been used to measure links between the P score and the N2 score and education intervention, political and religious views and pro-social behaviour (Borenstein *et al.* 2006). However, these latter links did not form part of this study.

Whilst the DIT and DIT 2 have limitations, they have been extensively tested over time and are justified by the empirical literature. The correlation of moral comprehension with the P score is 0.67 and with N2 score is 0.69 ($n=140$, $p<.001$) (Rest *et al*. 1997). The P score and the N2 score are also highly correlated in the 0.90's (Rest *et a*l. 1997). However, a meta-analysis of these two indexes conducted by Rest *et al*. (1997) has indicated that the N2 score significantly accounts for a greater portion of the variance as a whole than the P score ($p< .01$) and outperforms the P score on the benchmark statistics of the classic studies as an indicator of general development in moral judgment (n=4,125, overall effect size 0.94 v 0.69, p<.001). Despite this, the P score remains relatively easy to measure and provides straightforward interpretation of the ethical reasoning of the respondent (Rest et al. (1997).

The DIT and DIT 2 instruments are therefore indicative of a taxonomy of ethical development, particularly as they may be used to reflect post conventional thinking. In addition, they are written tests which are easily administered by an email or an online survey.

These instruments have also been adapted by numerous researchers to incorporate profession specific case scenarios, instead of generic moral dilemmas as used by Bigel (1998) and in the original DIT test, to test the ethical reasoning of certain professional groups. The approach to research of Thorne (2000) and Borenstein *et al.* (2006) has been influential in this study.

Utilising similar techniques to those employed by Thorne (2000) in her development of two accounting-specific measures of prescriptive and deliberative moral reasoning of accountants and Borenstein *et al.* (2006) in their development of the Engineering and Science Issues Test (ESIT), this study developed the FAIT instrument to test the cognitive ethical reasoning of financial planning participants through the use of profession specific case dilemmas.

According to previous studies, cognitive ethical reasoning is not the only contributor to ethical decision-making. It can be inferred from the literature review that the predicators of both ethical reasoning and decision making are both complex and indirect (Suzuki & Knudson 1989; Lefkowitz 2003; Minett 2006).

An important question for this study therefore was whether a measure of individual cognitive moral development would, on its own, be the best predictor of the ethical decision making of financial planning participants within a financial services organisation.

The answer to this question arose in part from the premise found within the literature review that some individuals do not maintain the same moral philosophy at both work and home (Ferrell, Fraedrich and Ferrell 2002). In addition, some studies have demonstrated that lower level managers and employees are less likely to believe that their organisations are managed ethically and are more likely to report that their personal values are compromised to conform with organisational expectations (Lefkowitz 2003), although subordinates with higher moral cognitive development will be less affected by their supervisor's influence (Wimbush 1999).

Consistent with the literature review therefore, this study moved away from a sole emphasis on individual cognitive development as the primary predictor of individual Decision making (Kelloway *et al.* 1999) to include situational and contextual factors.

In terms of situational factors that may influence the ethical reasoning of financial planning participants, Hitt (1990) has suggested that the size of the organisation may be one such variable, together with the participant's time with the organisation, the number of staff and the age of the organisation. Many financial services organisations whose advisers took part in this study have multinational and/or complex business structures (Money Management Magazine 2007). This study was influenced by theories that the larger the organisation, the increased likelihood that employees would perceive more issues with ethical culture (Kitson & Campbell 1996, p.104). Does this mean that larger organisations are less likely to be perceived as engaging in ethical decision-making when compared to smaller organisations?

The number of other variables and constructs to be studied during the course of this thesis required the exclusion of other situational factors from this study. It is recognised however that other factors such as the moral intensity and issue perception of the ethical dilemma (Jones 1991; Butterfield, Trevino & Weaver 2000) may also be predictors of ethical decision making.

In terms of the contextual factors that influence individual ethical decision-making within organisations, four paradigms were identified from the literature:

(a) ethical culture;
(b) ethical climate;
(c) leadership and role models; and

(d) remuneration and reward structures.

Numerous academics including Jackall (1998), Pederson (1999) and Thompson (2004) have maintained that it is inevitable that corporate structures, organisational norms and payment structures will conflict with individual values and beliefs, and that this compromises independent ethical decision-making within organisations.

Finn (2003) has further contended that financial and professional businesses, operating under corporate umbrellas, place pressure on the ability of individual employees to meet conflicting professional and commercial obligations and imperatives.

It is recognised that there are other issues currently placing pressures on decision-makers within financial services organisations, including the global financial crisis and resultant economic downturn with the risk of job loss. However, these issues do not form part of this study.

The literature review suggested that an organisation with a strong ethical context, represented by the two multi dimensional constructs, ethical climate (Victor & Cullen (1988) and ethical culture (Trevino 1992), has a real and significant role to play in both positively influencing the ethical conduct of individuals, ensuring consistency of decision making in certain circumstances and plays a major role in addressing specific unethical behaviour (Whitehead & Novak 2003; Peterson 2002).

There appears to be no empirical data on the ethical climate and ethical culture of financial planning organisations, despite significant studies in other areas such as not for profit organisations (Deshpande 1996; Agarwal & Molloy 1999), police (Ede & Legosz 2002), IT managers (Okpara 2002), marketers (Barnett & Vaicys 2000), corporations (Erondu, Sharland & Okpara 2004) and schools (Rosenblatt & Peled 2002).

The contextual factors chosen for measurement in this study therefore included ethical climate and ethical culture. This allowed an exploration of Victor and Cullen’s (1988) ethical climate model, using Trevino, Butterfield and McCabe’s (1998) ethical climate and culture survey.

Research has also shown that organisations can reduce unethical choices by developing particular types of climates (Gephart, Harrison and Trevino 2007). For example, perceptions of caring climates may deter unethical behaviour because of their social support base (Wimbush, Shepard & Markham 1997) and caring and principled climates may lead to higher levels of ethical reasoning and more ethical decision making (Barnett and Vaicys 2000; Watley 2002).

Ineffective climates may also lead to a lack of organisational control over employee actions, or predictable errors occurring in ethical behaviour or decision making (Victor and Cullen 2001). For example, Gephart, Harrison and Trevino (2007) found that an egoistic climate increased the likelihood of unethical intentions and unethical behaviour. However, they found that a principled based climate which focuses on training; ethical guidelines, the implementation and enforcement of a code of conduct and other cultural systems, can deter unethical behaviour ($p = .3$ to $.5$).

An organisation's ethical climate should help to determine what employees/advisers believe constitutes ethical behaviour at work; which issues employees/advisers consider to be ethically pertinent; and what criteria they use to understand, weigh and resolve issues (Kelloway *et al.* 1999; Vardi 2001).

Measuring the ethical climate of an organisation is based on the assumption that group members know what the climate is and can describe it in an objective way to outsiders (Weber 1993).

The Victor and Cullen (1988) model suggested nine climate types that guide ethical decision making and actions within an organisation by use of different ethical criteria. These nine ethical types were outlined in Table 2.10 of Chapter 2 and correspond to three major classes of ethical theory: egoism, utilitarianism and deontology. They are also consistent with Kohlberg's (1969) stages of moral development at three levels: individual, local or organisational and cosmopolitan or society (Cullen, Victor & Stephens 1989), as shown in Tables 2.8 and 2.9 of this thesis.

It can be inferred from the literature that there is no one best or preferred ethical climate as firms can be ethical in many ways. The different types of climate are also not mutually exclusive, although one is likely to dominate (Martin and Cullen 2006). However, Weber (1995) has hypothesized that perceptions of ethical climate may differ across departments and employee levels because of differences in departmental tasks and stakeholder accountability.

The Trevino, Butterfield and McCabe (1998) questionnaire adapted for the purposes of this study, contained four-item subscales to measure the nine theoretical dimensions of ethical climate using the following headings: Self Interest, Company Profit, Efficiency, Friendship, Team Interest, Social Responsibility, Personal Morality, Rules and Standard Operating Procedures and Laws and Professional Codes. The headings for each of these nine climate types are outlined in Table 4.1 below in column one. Column two provides the name ascribed to the climate for the purposes of this study and column three contains a description of the climate type.

The nine ethical climate scales in the Trevino, Butterfield and McCabe (1998) survey contained items to measure peer behaviour and the extent to which:

- norms supported ethical conduct;
- ethical behaviour was rewarded;
- unethical behaviour was punished;
- senior managers acted as models of ethical conduct;
- employees were expected to obey authority figures without question; and
- employees reported unethical behaviour when it occurred.

Table 4.1: A summary of the nine ethical climate scales measured in this study

Ethical Climate Type	Name used in this study	Description
Employee Focus	Employee Focus	The organisation is perceived as being concerned with the welfare of individuals and groups within the organisation.
Community Focus	Community	The organisation is usually perceived as being focussed on team and social responsibility which considers what's best for everyone and what is right for the customer and the public, when making decisions.
Obedience to authority	Locus of Control	Organisation members are expected to obey the authority and expectations of their superiors when making decisions.
Code Implementation	Code Implementation	Employees are expected to comply with an internal code of ethics to regulate their decision-making.
Self Interest	Situational Context	The organisation's members perceive they are expected to act and make decisions primarily based on furthering the company's interests first.
Efficiency	Efficiency	The organisation is usually perceived as requiring members to take the course of action that will lead to the most efficient outcome.
Rules and Procedure	Rules and Procedure	There is a focus on internal rules and standard operating procedures which everyone is expected to follow when making decisions.
Personal Ethics	Personal Ethics	This climate allows individual members to make decisions consistent with their own personal and moral beliefs.
Law and Professional Codes	Law and Professional Codes	Employees are expected to comply with the codes and regulation of their profession and other externally generated standards in choosing a course of action.

***Source*: developed by the researcher**

As indicated in Chapter 2, research has demonstrated evidence of a relationship between perceptions of ethical climate type and individual level work outcomes, such as job satisfaction (Vitell & Davis 1990; Martin & Cullen 2006; Armstrong, Kusuma & Sweeney 1999; Joseph & Deshpande 1997) and organisational commitment (Trevino 1986; Cullen, Parboteeah & Victor 2003). In their empirical study Cullen, Parboteeah and Victor (2003) found that perceptions of a benevolent climate were positively related to commitment and perceptions of an egoistic climate were negatively related to commitment.

Research conducted by Okpara (2002) has also shown that employees desire consistency between their own ethical value system and the ethical climate of their organization. Discrepancies between an individual's internal ethical values and their perception of management values and the ethical climate within the organization can result in moral conflict if inconsistency prevails (Ferrell, Fraedrich & Ferrell 2002). Conflict can also exist if the values espoused by the organisation and management are not the ones actually utilised in practice.

Trevino, Butterfield and McCabe's (1998) organisational commitment measure was used in this study and contained items selected from two dimensions of the three-dimensional commitment measure. The first dimension is "identification" which represents the person's identification with the attitudes or goals of the organization. For example: "I talk enthusiastically to my friends about the Licensee as it is a great organization to belong to" and "I feel very loyal to this Licensee."

The second dimension was a values based type of commitment called "internalization". This measures the extent to which the person internalizes the organisation's perspectives or characteristics. For example, "I find that my values and the organization's are very similar." These types of questions were located within the Employee Focus climate scale.

Ethical culture was another key contextual factor affecting ethical decision-making measured in this study. It was defined by Trevino, Butterfield and McCabe (1998) to mean the formal and informal control systems within an organization that articulate and define the ethical conduct expected of its members.

According to Trevino, Butterfield and McCabe (1998, p. 452) ethical conduct should be higher in organisations which have these formal and informal systems in place. For example, organisations where leaders and norms encourage and support ethical conduct and where ethical conduct is rewarded and unethical conduct punished should have higher levels of ethical conduct, than in organisations without such characteristics.

Ethical culture can be measured through a survey that identifies the absence or presence of these systems or mechanisms (Standards Australia 2003c at p.4).

Remuneration source was another construct identified for study from the literature review. Bigel's (1998) research did not find a significant correlation between remuneration source and ethical reasoning amongst financial planners. However, there were some theories within the literature review that suggested that remuneration source and reward structures (Hegarty & Sims 1978; Trevino & Youngblood 1990) are factors influencing ethical decision making within organisations. These theories were supported for the purposes of this study by anecdoctal evidence outlined in Chapter 3 that remuneration and reward structures in the financial services sector were related to unethical conduct by financial planners (Johnston 2004; Lucy 2006b & FRPA 2006e).

Measuring the influence of ethical leadership and role on ethical decision-making within financial planning organisations flowed from the decision to include compliance officers as a specific respondent group to this study. These became additional contextual factors studied in this thesis.

It was argued for the purposes of this study that the ethical decision making of compliance officers in their management role and their ability to influence the ethical decision making of the financial planners they supervise, played an important role in the effective management of financial planning advice and in reducing the ethical risks posed by Petrick and Quinn (1997) in Chapter 2.

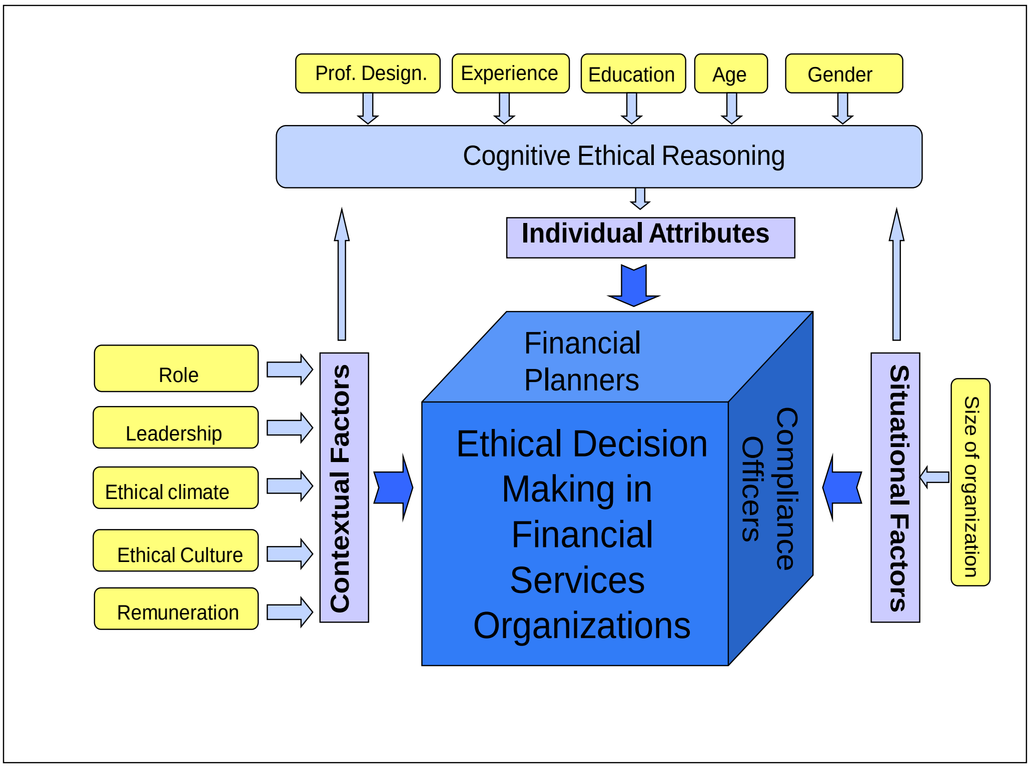
The literature review also identified ethical leadership as another contextual factor that had been the subject of research to determine its relationship with ethical conduct and decision-making. For example, the relationship between ethical leadership, ethical reasoning, ethical climate and employee attitudes was the subject of research by

Schminke, Ambrose and Neubaum (2005). This research found that leaders with higher ethical reasoning scores measured by the DIT instrument were more likely to influence the ethical climate in their groups, particularly in younger organisations (Trevino, Weaver & Reynolds 2007).

Applied to this current study, this research suggested that ethical leadership within financial services organisations may be significantly related to perceptions of ethical climate type and may have a positive influence on the ethical behaviour of staff.

Figure 2 below conceptualises the study's broad model of the determinants of ethical decision making of financial planning participants in financial services organisations. The figure shows the predictors of ethical decision-making studied in this research.

Figure 2: Conceptual model of the determinants of ethical decision making of financial planning participants within financial services organisations.



***Source*: Developed by the researcher**

Figure 2 differs from Figure 1 in Chapter 2 in that it shows only the predictors of the ethical decision-making studied in this research. Figure 1 identified additional individual attributes that may affect ethical decision making, including individual moral values and personality and situational factors such as issue perception and moral intensity. These factors were not measured in this study. The predictors measured in this research included:

a) The cognitive ethical development of the respondent and other individual attributes such as age, gender, education attainment, experience levels and accreditation to use the CFP® professional designation (Bigel 1998);

b) The characteristics of the situation, represented by the size of the organization (Hitt 1990); and

c) The characteristics of the context, represented by the remuneration sources of the individual respondent (Bigel 1998) and their role within the organization (Pennino 2002; Martin 2000), the ethical climate (Victor and Cullen 1988) and ethical culture of the organization (Trevino, Butterfield & McCabe 1998), and the presence of ethical leadership (Schminke, Ambrose & Neubam 2005).

In the next section of this Chapter, these key themes identified from the literature review for measurement in this study are further linked to the aims and objectives of this research. The concepts and variables to be studied are also identified and defined.

4.3 The Definitions of the Concepts/Variables to be studied

The findings of the literature review outlined in Chapter 2 were a combination of concepts and variables. This section of the Chapter will now examine and define the main constructs and variables that have arisen from the theories outlined in Chapter 2 in particular and that are integral to this study.

This study was interested in the predictors of ethical decision making. Ethical decision making was therefore conceptualized as the primary dependent variable which is influenced by individual attributes, situational factors and contextual factors. These were identified as the three relational constructs of ethical decision making to be studied.

In terms of the individual attributes to be studied, based on Kohlberg's (1976) theory, this study conceptualised that the construct of cognitive ethical reasoning was a predictor of an individual's ethical decision making and behaviour. Cognitive ethical reasoning therefore became another of the dependent variables to be studied.

Based on Bigel's (1998) research, this study also conceptualised that attributes pertaining to the individual, being their age, experience, education, professional designation and gender may predict their level of cognitive ethical reasoning. These attributes were identified as independent variables which may influence the dependent variables.

Another concept related to this study was that certain situational and contextual factors may influence the ethical decision making of an individual in an organisational environment. This study was particularly interested in the dynamic between the individual participants and the organisation for which they worked.

The study measured whether there was a significant statistical relationship between the dependent variable of cognitive ethical reasoning and four independent variables representing the contextual factors studied. These four independent variables were (1) the respondent's remuneration source; (2) the respondent's role within the organisation; (3) the ethical culture and (4) the ethical climate of the organisation.

Remuneration structures were chosen as an independent contextual variable for study as discussed previously in this Chapter. For the purposes of this study, remuneration source was categorised as salary, commissions, fees and a combination of fees and commissions.

Role was conceptualised as the respondent's primary role within their financial services organisation, categorised as either the financial planner or compliance officer role, representing the two respondent groups participating in the study.

In relation to ethical culture, the study sought to measure the perceptions of the two respondent groups of the systems and procedures related to the ethical culture within financial services organizations and whether there was a statistically significant relationship between perceptions of ethical culture within financial services organisations and cognitive ethical reasoning scores.

In terms of the former measurement, no variables were required. In relation to the latter measurement, ethical reasoning was defined as the dependent variable. Ethical culture items used in the study's questionnaire were converted to scales and treated as independent variables.

The study examined relationships between the nine ethical climate dimensions and other constructs. For example, it considered whether there were any statistically significant differences between financial planners and compliance officers in their perceptions of the nine ethical climate dimensions within financial services organisations. For this measurement, no dependent or independent variable needed to be identified.

The study also examined relationships between some of the nine ethical climate dimensions and other constructs, such as ethical leadership and employee commitment. To undertake these measurements, ethical leadership and employee commitment were also converted to scales and then treated as independent variables.

4.4 The Relationships and Associations to be Explored

One of the objectives of this research was to predict the statistically significant relationships that existed between the individual, situational and contextual factors identified in the literature review and the ethical decision-making of financial planning participants.

One relationship explored was between cognitive ethical reasoning and demographic value set pertaining to the individual decision maker. Bigel's (1998) research suggested that cognitive ethical reasoning should increase with the age, education level and experience of the individual financial planner.

In relation to the individual factors affecting ethical decision-making therefore, the study explored the existence of statistically significant relationships between the individual attributes of gender, age, education attainment, the CFP® professional designation and years of experience with the cognitive ethical reasoning of financial planning participants.

These relationships were underpinned by the assumption that the higher the level of cognitive ethical reasoning held by a respondent, the greater their ability to make ethical decisions according to stage five and six of Kohlberg’s (1969) six stages of moral development and the more effective those decisions would be (Thorne 2000; Borenstein *et al.* 2006).

In terms of education attainment, currently financial planners derive from a diverse range of educational and professional backgrounds. There is no minimum undergraduate degree entry as would be expected of a true profession. Further, only financial planners who either have an undergraduate degree or who hold professional designations such as CFP® or CPA will have been exposed to formal training in ethics and professional obligations prior to their engagement as a financial planner. This study proposed that this lack of formal training may negatively influence the level of ethical reasoning currently held by financial planners.

Age (Hitt 1990) and gender were two other demographic variables that have been tested as factors which influence cognitive ethical reasoning and hence ethical decision making. In relation to gender studies have also suggested that the moral development and reasoning of men and women differ (Gilligan 1982; Straub 1994; Dawson 1992).

The study considered one situational factor, namely the size of the organization and whether a statistically significant relationship existed between this independent variable and the cognitive ethical reasoning of financial planning participants.

Numerous relationships were explored in relation to the contextual factors that predict ethical decision making as follows:

- The existence of statistically significant relationships between role and the cognitive ethical reasoning of financial planning participants.
- Whether there are differences between financial planners and compliance officers in their perceptions and attitudes to the ethical climate and ethical culture that exists within their financial services organisations.
- The existence of a statistically significant relationship between perceptions of a strong ethical culture within financial services organisations and cognitive ethical reasoning scores.
- The existence of a statistically significant relationship between perceptions of ethical leadership within a financial services organisation and the ethical climates of community focus; employee commitment and obedience to the law.
- The existence of a statistically significant relationship between perceptions of a self-interest ethical climate within financial services organisations; organisational commitment and cognitive ethical reasoning scores.

As was discussed in section 4.2 of this thesis, Bigel's (1998) study also tested the correlation between the remuneration source of financial planners and ethical reasoning. Bigel's results suggested no relationship between remuneration and ethical reasoning. However, this study proposed to re-evaluate remuneration structures as a factor influencing ethical decision making, given the significant anecdotal link between different compensation sources and ethical behaviour highlighted in Chapter 3 of this thesis and the current industry debate concerning conflicts of interest and whether or not financial planners have a fiduciary relationship with their clients which is being breached because of industry remuneration structures.

This study has extended past Bigel's study to also explore contextual factors affecting the respondent's ethical decision making, including the ethical climate and culture of the financial planning firms in Australia. Braithwaite (1993) and Lepper (1983) have argued that these contextual factors influence ethical decision making within large organisations. This thesis has considered whether this relationship exists for financial planners which are engaged or employed by large financial institutions in particular.

This research has argued that a strong ethical context may assist a financial services organisation to meet its obligations to provide services in an efficient, fair and honest manner as required by the law and to provide quality advice to clients.

This thesis has also been influenced by the arguments raised by researchers such as Thompson (2004) that a moral hazard may exist for professionals who perceive their agency/employment relationship with their organisation as more important then their relationship with their client. One of the questions for this study was whether contrary to what Thompson (2004) has argued, financial planners can balance their professional obligations and agent responsibilities to the organisations they represent.

It has also been argued previously in this thesis that any discrepancy between the financial planning participants' internal ethical values and their perception of management and ethical climate within the organisation may result in a moral conflict and cognitive dissonance.

For all of these reasons, this study has sought to examine whether contextual factors, such as ethical climate and ethical culture, influence ethical decision making outcomes within financial planning organisations, either positively or negatively.

The study predicted that another positive influence on decision making within financial planning organisations may be the existence or otherwise of formal and informal ethical frameworks, systems and procedures that clearly articulate the ethical conduct expected of members of the organisation and provide consistency of approach to ethical decision making. The presence or otherwise of such systems was also measured. It was hypothesized that one influence on the levels of cognitive ethical reasoning and therefore ethical behaviour of financial planners was a strong ethical culture where acceptable ethical behaviour was clearly defined and ethical culture was promoted.

An additional relationship considered by the research was whether financial planning participants perceived that the ethical climate of their organisations allowed them to meet the aspirational ethical and professional standards expected of them as members of an emerging profession and encouraged a principled, creative and flexible approach to ethical decision making (Dal Pont 2003); or whether alternatively, it impeded their ability to do so.

Adding complexity to this study is the view espoused by Martin (2000) that all issues in professional ethics increasingly concern interaction between professionals and their organisations. Martin (2000, p.119) also discussed three aspects of what has been described as “Shared Responsibility” between professionals and authority – structured organisations:

(a) the interplay between the professional’s authority as an expert and the managers authority within the organisation;
(b) the possibility of corporations and professionals serving widely overlapping or shared goals;
(c) how respect for authority can be compatible in principle with professional autonomy.

This study did not measure organisational structure, significant others or opportunity in depth, although it is understood that all of these factors are interrelated and influence business ethics evaluations and intentions, which in turn result in ethical or unethical behaviour.

Leadership also has an impact on ethical decision making within organisations because leaders are key in influencing corporate culture and ethical climate (Schminke, Ambrose & Neuman 2005; Turner et al. 2002).

This study had two different groups of respondents: financial planners who give the financial advice to consumers, and financial services compliance officers who supervise and monitor financial planners to ensure the advice they give complies with the legal, professional and organisational standards expected.

The justification for the inclusion of these two respondent groups in this study has previously been outlined in the introduction to this thesis. In summary, the growing relevance of financial planning advice to the achievement of the global economic and social objectives (Wagner 2004; Certified Financial Planner™ Board of Standards Inc

[U.S.A] 2007a; Gallop 2003) and the lack of Australian research on the factors influencing the ethical decision making of financial planners, made them an appropriate respondent group for this research.

In addition, officers and managers such as compliance officers, have a significant role to play in influencing the ethical context in which the decision-making of financial planners takes place. This study has therefore chosen to examine additionally the ethical decision making of compliance officers and their perceptions of the ethical context within their organisation.

It was expected that there would be differences in the perceptions of ethical climate and culture and levels of cognitive ethical reasoning between financial planners and compliance officers, thus leading to gaps in management and adviser expectations about ethical conduct and decision making within organisations. This thesis has also proposed that such differences may affect the financial planning organisation's ability to comply with its legal and ethical obligations and additionally meet stakeholder expectations of ethical conduct and corporate social responsibility.

Accordingly, it became important to consider whether there were any differences in the individual decision-making of financial planners and those who monitor, supervise and manage their advice process, the compliance officer.

The research also examined whether perceptions of an instrumental climate within a financial services organisation were associated with a lower level of cognitive ethical reasoning, given the emphasis within that climate type on self interest.

4.5 The Research Questions

The aim of the research was to enhance our understanding of the ethical decision-making of financial planning participants. The primary research question posed by the study was:

What are the current individual, situational and contextual factors that may be influencing the ethical decision making of financial planners and financial services compliance managers in the provision of financial advice to consumers in Australia?

Five general objectives were then identified in order for the study to achieve its primary objective and fill gaps in previous studies, as follows:

1. To determine the primary types of unethical conduct of financial planners, in the provision of financial advice to consumers.
2. To test the perceptions of financial planners and compliance officers of the current ethical issues they face in their respective roles within financial services organisations.
3. To determine the individual attributes (individual demographic factors and cognitive ethical reasoning) that influence the ethical decision-making of financial planning participants in the provision of financial advice to Australian consumers.
4. To determine the situational and contextual factors that influences the ethical decision-making of financial planning participants.

The research objectives were five-fold:

1. To confirm Bigel's (1998) theory of the cognitive ethical reasoning of financial planners in an Australian context.
2. To develop a profession specific test of cognitive ethical reasoning for financial planning.
3. To predict the relationships between individual, situational and contextual factors and the ethical decision making of financial planning participants
4. To measure the perceptions held by financial planning participants of the ethical climate within their financial services organisations, using a modified version of the Trevino, Butterfield and McCabe (1998) ethical climate and culture survey.
5. To measure the perceptions held by financial planning participants of the systems and procedures within their financial services organizations related to ethical culture.

This question posited seven additional research questions, which are outlined below and which became the basis for the research.

Research Question 1

What are the primary types of unethical conduct exhibited by financial planners in the provision of financial advice to Australian consumers?

Research Question 2

What are the perceptions of financial planners and compliance officers of the current ethical issues facing them in their respective roles?

Research Question 3

Are there statistically significant relationships between individual attributes (gender, age, education attainment, the CFP® professional designation and years of experience) and the cognitive ethical reasoning of financial planners and compliance officers?

Research Question 4

Is there a statistically significant relationship between the size of the organisation and the cognitive ethical reasoning of financial planning participants?

Research Question 5

Are there statistically significant relationships between the contextual factors of remuneration source and the role of the respondent with cognitive ethical reasoning?

Research Question 6

6A Is there a statistically significant relationship between perceptions of ethical culture within financial services organisations and cognitive ethical reasoning scores?

6B What are the systems and procedures currently in place within AFS Licensees that are related to ethical culture?

Research Question 7

7A Are there differences in perceptions of the ethical climate within financial services organisations, between financial planners and compliance officers?

7B Are there statistically significant relationships between the ethical climate dimensions, cognitive ethical reasoning and ethical leadership?

4.6 The Hypotheses

To test the validity of the research model it is necessary that the individual relationships between variables are statistically significant in the predicted direction and of a magnitude warranting further interest.

The empirical study cannot deal with all of the variables and possible combinations of relationships contained in the model. Only those relationships tested in this thesis are therefore presented as hypotheses.

Using the literature review, the following hypotheses of relationships were developed and later tested. The analytical methods chosen to test the hypotheses are discussed in detail in sections 5.5, 5.8 and 5.9 of Chapter 5.

Research Question 1 related to the primary types of unethical conduct exhibited by financial planners in the provision of financial advice to Australian consumers and did not require a hypothesis as no relationships were tested in this analysis. A quantitative analysis was conducted to determine the unethical conduct from the public records or patterns determined by consumer complaints against financial advisers and financial planning organisations by external adjudicators between 2006-2007.

Research Question 2 concerned the perceptions of financial planners and compliance officers of the current ethical issues facing them in their respective roles. This research question did not require a hypothesis as no relationships were tested in this analysis. These perceptions were tested using qualitative research methods.

The first level or set of relationships that were explored in the study related to Research Question 3. This research question examined the existence of statistically significant relationships between individual attributes (gender, age, education attainment, the CFP® professional designation and years of experience) and the cognitive ethical reasoning of the financial planner and compliance officer respondent groups.

In relation to the Level one relationships to be tested, studies have suggested that the cognitive ethical reasoning of men and women differ (Gilligan 1982, Straub 1994, Dawson 1992). It was expected that women advisers may assume an ethics of care approach to the resolution of ethical dilemmas and may therefore have higher cognitive reasoning scores than their male counterparts, as identified by Bigel (1998).

It was also inferred from the literature review that cognitive ethical reasoning should increase with the age, education level and the experience of the individual participants. Bigel's (1998) study also found that cognitive ethical reasoning increased when the participants held the CFP® professional designation.

This study measured cognitive ethical reasoning using three scores identified from the application of a profession specific form of the DIT2 test, called the FAIT instrument. The P score and the N2 score are the traditional scores associated with the DIT and DIT2 instruments. The FAIT score is a unique score developed for the purposes of this study from the FAIT data. It is described in more detail in Chapter 5.

Each hypothesis associated with the measure of cognitive reasoning therefore had a series of sub-hypotheses to measure the relationship between cognitive ethical reasoning and the three scores separately. In particular this was adopted for hypothesis 1, 5, 6, 9.

Accordingly, the first set of hypotheses was:

H1: That female gender will be positively related to higher ethical reasoning scores when compared to male gender.

- **1a.** That female gender will be positively related to higher P scores when compared with male gender.
- **1b.** That female gender will be positively related to higher N2 scores when compared with male gender.
- **1c.** That female gender will be positively related to higher FAIT scores when compared with male gender.

H2: That the individual attributes of age, education, experience and professional designation will all be positively correlated to higher ethical reasoning scores.

- **2a.** That older age will be positively correlated with higher ethical reasoning scores**.**
- **2b.** That higher tertiary education attainment will be positively correlated with higher ethical reasoning scores**.**
- **2c.** That longer work experience will be positively correlated with higher ethical reasoning scores**.**
- **2d.** That the CFP® professional designation will be positively correlated with higher ethical reasoning scores**.**

The second level of relationships explored related to Research Question 4 and whether there was a statistically significant relationship between the size of the organisation and the cognitive ethical reasoning of financial planning participants. This led to the third hypothesis.

H3: That the size of the organisation will be negatively correlated with higher ethical reasoning scores.

The third level of relationships measured concerned the contextual factors that affect ethical decision-making within organisations including the size of the organisation, its ethical culture and ethical climate and remuneration structures. The level three relationships primarily related to Research Questions 5, 6 and 7.

In relation to the level three relationships and whether contextual factors explain post conventional thinking, the study entered cultural variables into the model after the independent variables of age, gender, education and experience had been controlled for.

Bigel’s (1998) study also tested the correlation between remuneration source and ethical reasoning. Although he found no relationship between the remuneration type of the adviser and their cognitive ethical reasoning, the current public debate about the conflicts of interest associated with remuneration structures outlined in Section 3.9.4, means the relationship warrants further testing in an Australian context. This debate suggested that financial planners who primarily earned salary or charged clients fees for service would score higher ethical reasoning scores than financial planners who were primarily remunerated by commission or a combination of fee and commission.

Numerous academics including Jackall (1998), Pederson (1999), Finn (2003) and Thompson (2004) have also commented on the inevitability that corporate structures, organisational norms and payment structures place pressure on the ability of individual employees to meet conflicting professional and commercial obligations and imperatives. It was therefore expected that remuneration structures might be one contextual factor negatively influencing the ethical decision making of financial planners and compliance managers alike.

Accordingly, the next hypotheses for testing were:

H4: That the receipt of commission payments as a primary remuneration source will be negatively correlated to higher ethical reasoning scores, when compared with the receipt of salary or fee.

H5: That the role of compliance officer will be negatively correlated to high ethical reasoning scores when compared with the role of financial planner.

5a. That the role of compliance officer will be negatively correlated with higher P scores when compared with the role of financial planner.

5b. That the role of compliance officer will be negatively correlated with higher N2 scores when compared with the role of financial planner.

5c. That the role of compliance officer will be negatively correlated with higher FAIT scores when compared with the role of financial planner.

The literature review led to the proposition that the ethical climate and ethical culture within financial services organisations may be influencing the ethical decision making of financial planners and compliance managers.

A measure of the statistical relationship between ethical culture and cognitive ethical reasoning was therefore required.

H6: That higher ethical culture scores within an AFS Licensee will be positively correlated with higher ethical reasoning scores.

6a. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher P scores.

6b. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher N2 scores.

6c. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher FAIT scores.

The literature review also suggested that an organisation with a strong ethical context (its climate and culture) has a real and significant role to play in both positively influencing the ethical conduct of individuals, ensuring consistency of decision-making in certain circumstances and plays a major role in addressing specific unethical behaviour (Whitehead & Novak 2003).

It was expected that there would also be differences in perception of ethical climate and culture within financial services organisations between financial planners and compliance officers. This was because compliance officers are at the front line in terms of resourcing and handling legal, ethical and regulatory issues for their organisation each day and these matters will be uppermost in their thinking.

Accordingly the hypotheses developed to explore these relationships were:

H7: That there will be statistically significant differences in the perceptions of the nine ethical climate dimensions between compliance officers and financial planners.

- **7a.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension Employee Focus between compliance officers and financial planners.
- **7b**. That there will be a statistically significant difference in the perceptions of the ethical climate dimension Community between financial planners and compliance officers.
- **7c**. That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Locus of Control (Obedience to Authority) between compliance officers and financial planners.
- **7d.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Code Implementation between compliance officers and financial planners.
- **7e.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Situational Context (Self Interest) between compliance officers and financial planners.
- **7f.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Efficiency between compliance officers and financial planners.
- **7g.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Rules and Procedures between compliance officers and financial planners.
- **7h**. That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Personal Ethics between compliance officers and financial planners.

7i. That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Law and Professional Codes between compliance officers and financial planners.

Measures of the perceptions of ethical climate/culture and their interaction with other constructs were also developed:

8 That perceptions of high ethical leadership in an AFS Licensee will be positively correlated with perceptions of higher levels of the ethical climate dimensions Community Focus; Employee Commitment and Law and Professional Codes.

9. That perceptions of a self interest climate (Situational Context) within an AFS Licensee and a higher score on organisational commitment will be negatively correlated with higher ethical reasoning scores.

9a Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher P scor**es.**

9b Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher N2 scores.

9c Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher FAIT scores.

The aim of these hypotheses was to uncover the predictors of ethical decision making and whether direct, indirect or no statistically significant relationships existed between the different variables. The individual, situation and contextual factors are posited to be influential on ethical decision making directly.

A list of the hypotheses tested in this study has been outlined in full in Table 4.2 below. Column one of Table 4.2 describes the construct to which the hypothesis applies. Column two outlines the hypothesis.

Table 4.2: Table of hypotheses

Factors Affecting Ethical Decision-Making	Hypotheses
Individual Factors	**1.That female gender will be positively related to higher ethical reasoning scores when compared to male gender.** **1a.** That female gender will be positively related to higher P scores when compared with male gender. **1b.** That female gender will be positively related to higher N2 scores when compared with male gender. **1c.** That female gender will be positively related to higher FAIT scores when compared with male gender.
	2. That the individual attributes of age, education, experience and professional designation will all be positively correlated to higher ethical reasoning scores. **2a.** That older age will be positively correlated with higher ethical reasoning scores**.** **2b.** That higher tertiary education attainment will be positively correlated with higher ethical reasoning scores**.** **2c.** That longer work experience will be positively correlated with higher ethical reasoning scores**.** **2d.** That the CFP® professional designation will be positively correlated with higher ethical reasoning scores**.**
Situational Factors	**3. That the size of the organisation will be negatively correlated with higher ethical reasoning scores.**
Contextual Factors	**4. That the receipt of commission payments as a primary remuneration source will be negatively correlated to higher ethical reasoning scores, when compared with the receipt of salary or fee.**
	5. That the role of compliance officer will be negatively correlated to high ethical reasoning scores when compared with the role of financial planner. **5a.** That the role of compliance officer will be negatively correlated with higher P scores when compared with the role of financial planner. **5b.** That the role of compliance officer will be negatively correlated with higher N2 scores when compared with the role of financial planner. **5c.** That the role of compliance officer will be negatively correlated with higher FAIT scores when compared with the role of financial planner.
	6. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher ethical reasoning scores. **6a.** That higher ethical culture scores within an AFS Licensee will be positively correlated with higher P scores. **6b.** That higher ethical culture scores within an AFS Licensee will be positively correlated with higher N2 scores. **6c.** That higher ethical culture scores within an AFS Licensee will be positively correlated with higher FAIT scores.

	7. That there will be statistically significant differences in the perceptions of the nine ethical climate dimensions between compliance officers and financial planners. **7a.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension Employee Focus between compliance officers and financial planners. **7b**. That there will be a statistically significant difference in the perceptions of the ethical climate dimension Community between financial planners and compliance officers. **7c**. That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Locus of Control (Obedience to Authority) between compliance officers and financial planners. **7d.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Code Implementation between compliance officers and financial planners. **7e.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Situational Context (Self Interest) between compliance officers and financial planners. **7f.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Efficiency between compliance officers and financial planners. **7g.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Rules and Procedures between compliance officers and financial planners. **7h**.That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Personal Ethics between compliance officers and financial planners. **7i.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Law and Professional Codes between compliance officers and financial planners.
	8. That perceptions of high ethical leadership in an AFS Licensee will be positively correlated with perceptions of higher levels of the ethical climate dimensions Community Focus; Employee Commitment and Law and Professional Codes.
	9. That perceptions of a self interest climate (Situational Context) within an AFS Licensee and a higher score on organisational commitment will be negatively correlated with higher ethical reasoning scores. **9a** Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher P scores. **9b** Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher N2 scores. **9c** Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher FAIT scores.

4.7 Summary

This Chapter has outlined the conceptual and theoretical framework for the study, which attempts to fill gaps in the existing knowledge base about the current ethical issues facing financial planning participants in the provision of financial advice to Australian clients and the factors that may affect the ethical decision-making of these participants within financial services organisations. These gaps in knowledge became the primary focus of this study.

The Chapter summarised the key theories emanating from the literature review, which were identified for exploration within the thesis. This study attempts to enhance the understanding of these theories through the measurement of its own conceptual model.

That conceptual model is based on the theories that suggest that there are numerous predictors of ethical decision-making, which include individual, situational and contextual factors. This study was influenced by the proposition that a multi-faceted approach to the study of ethical decision-making, which incorporated the measurement of constructs and variables from across these three factors, was appropriate.

It can be inferred from the literature review that to measure only the level of cognitive ethical reasoning of financial planning participants and other attributes pertaining to the individual decision maker, such as age, experience and education level, may have provided too limited a picture of ethical decision-making within financial planning organisations.

As the study was particularly interested in the dynamic between the individual and the financial planning firm, in influencing decision making it was decided to extend the research design to include some of the situational and contextual factors that may be influencing the ethical decision respondents in addition to their ethical reasoning ability. Accordingly the research design incorporated the measure most of variables and relationships posited from across the three predictor categories. This also influenced the development of the primary research question namely, to identify the individual, situational and contextual factors that influence the ethical decision making of financial planners and compliance officers in the provision of financial advice to Australian consumers.

The Chapter also defined the constructs and variables to be studied in this research and provided an exposition of the relationships and associations of these constructs and variables as identified from the previous research, together with a justification for why they influenced this study and a description of the nature and direction of the relationship. The primary dependent variable identified for the study was ethical decision-making and cognitive ethical reasoning. Independent variables to be measured which may influence the dependent variables included individual attributes such as the age, gender, experience and education level of the individual respondents.

Only one independent variable related to the situational context was identified for study, being the size of the organisation for which the respondent worked. The study also measured whether there was a significant statistical relationship between the dependent variable of cognitive ethical reasoning and four independent variables representing the contextual factors studied. These four independent variables were (1) the respondent's remuneration source; (2) the respondent's role within the organisation; (3) the ethical culture and (4) ethical climate of the organisation.

The study further examined relationships between the nine ethical climate dimensions and other constructs. For example, it considered whether there were any statistically significant differences between financial planners and compliance officers in their perceptions of the nine ethical climate dimensions within financial services organisations. For this measurement, no dependent or independent variable needed to be identified.

The study also examined relationships between some of the nine ethical climate dimensions and other constructs, such as ethical leadership and employee commitment. To undertake these measurements, ethical leadership and employee commitment were converted to scales and then treated as independent variables.

The Chapter outlined the derivation of the study's aims and the five general research objectives. The research objectives posited seven additional research questions which became the basis for the research.

The research objectives were five-fold: to confirm Bigel's (1998) theory of the cognitive ethical reasoning of financial planners in an Australian context; to develop a profession specific test of cognitive ethical reasoning for financial planning, to predict the relationships between individual, situational and contextual factors and the ethical decision making of financial planning participants; to measure the perceptions of financial planning participants of the ethical climate of financial services organizations, and to measure the perceptions, the systems and procedures related to the ethical culture of financial services organisations.

Two objectives were not associated with the establishment of statistically significant relationships and therefore required no hypotheses. These objectives were to determine the primary types of unethical conduct of financial planners, in the provision of financial advice to consumers and to test the perceptions of financial planners and compliance officers of the current ethical issues they face in their respective roles within financial services organisations.

The study also includes the measurement of nine hypotheses, seven which concern the existence of statistical relationships between cognitive ethical reasoning and other individual, situational and contextual constructs. The other two hypotheses measure the difference in perceptions between financial planners and compliance officers of the nine ethical climate dimensions and the relationship between ethical leadership, employee commitment and the ethical climate dimensions.

Chapter 5 of the thesis describes in more detail the methodology adopted to test the conceptual framework in more detail.

CHAPTER 5: METHODOLOGY

Myth 1: It's easy to be ethical (Trevino and Brown, 2004, p.70).

5.1 Introduction

The last Chapter outlined the conceptual framework for this thesis and developed the research questions and hypotheses to be tested. Chapter 5 discusses the research design and methodology used to undertake this research.

The research design represents both an interpretivist and positivist paradigm utilising both quantitative and qualitative research methods. This design was adopted to explore the research questions and hypotheses posed by the study and to achieve the thesis' aims and objectives, as outlined in the introduction and Chapter 4. A mixed methods approach to testing (Padgett 2009) was considered necessary in order to generate preliminary baseline data on the ethical decision making of financial planning respondents in Australia across a range of constructs.

The research design is described in section 5.2 of this Chapter. It recognizes that there are numerous predictors of the ethical decision making of individuals within organisations (Suzuki & Knudson 1989). The design incorporated the measurement of the relationship study between the different individual, situational and contextual constructs identified for in Chapter 4 and ethical decision making. These relationships were explored using a quantitative approach, based on a research instrument derived from instruments used in previous studies.

Section 5.2 also outlines the process adopted to select the sample groups used in both stages three and four of the study and the problems encountered in securing their participation.

The research was conducted in five stages to ensure it was undertaken in a sequential and ordered manner. This Chapter presents the methodology adopted for each stage in the sequence in which it was conducted. Stage one of the research comprised the literature search and review. Stage two of the research encompassed the quantitative analysis of consumer complaint data to ascertain the primary types of unethical conduct of financial planners, in the provision of financial advice to consumers. Stage three of the research involved the conduct of a focus group of financial planning respondents to elicit perceptions of the current ethical issues facing them respectively in their roles.

The results from these first three stages were used to assist in the design of the questionnaire instrument in stage four of the study, which is outlined in section 5.6 of this Chapter. The pre-testing of the research questionnaire and the reliability and validity of the scales is discussed in section 5.7.

Stage five of the study involved the collation and analysis of all data. These aspects of the study are considered in section 5.9.

The Chapter also discusses the process undertaken for ethics committee approval and the confidentiality of respondent information obtained during the project in section 5.10.

5.2 Details of the Research Design

5.2.1 The research design

The development of the research design required decisions to be made about the purpose of the study, the population to be studied, the types of investigation to be undertaken, the study setting, the extent of researcher interference and the time horizon for the study (Cavana, Delahaye and Sekaran 2001).

The research was a non-contrived, cross sectional study. The purpose of the study was primarily hypothesis testing so as to explain the nature of the relationships between the different constructs. To the extent that the study was interested in delineating between the individual, situational and contextual variables associated with ethical decision making, it can be described as a correlational study.

This was also a comparative study which explored whether there were any, and if so what, differences between the two sample groups studied, namely financial planners and compliance officers, in terms of their level of cognitive ethical reasoning and their perceptions of the ethical culture and ethical climate within their financial planning firms.

The study was also descriptive in nature in order to ascertain and describe the current characteristics of ethical and unethical conduct and decision-making of financial planning respondents. This was accomplished through a qualitative and quantitative methods approach. Firstly, through the use of a structured focus group, so as to understand the attitudes and perceptions of the two sample groups of the types of ethical issues they believe they currently face in their respective roles and the factors they believe influence their ethical decision making. Secondly, the study used quantitative analysis methods to generate preliminary data about the primary types of unethical conduct of financial planners in the provision of financial advice to consumers. To this extent the study undertook a clarification investigation.

Randall and Fernandes (1991) have emphasized the importance of controlling for social desirability bias in survey studies of ethical behaviour. For example, in this study a respondent may have been reluctant to answer questions truthfully if they would be perceived as unethical or behaving unethically in certain situations. In adopting the Trevino, Butterfield and McCabe (1998) methodology, bias in the regression analysis was controlled for using a 15 item measure of the subject's tendency to engage in impression management, adapted from Paulhus Bruce & Trapnell (1995).

Other researchers have suggested that web based survey responses are more honest and less extreme, presumably because the web is considered to be an anonymous forum (Buchanan 2004). However, to reduce the risk of this type of bias in responses, the study's respondents in stages three, four & five, were advised that they were free to decline to answer any question and were also free to withdraw from the study at any time. Individual responses were also only identifiable by the researcher and focus group and questionnaire responses were aggregated, with no disclosure of quotes attributable to any individual, obtained from the survey responses.

5.2.2 Selection/frame of the research sample groups

Whilst the composition and framing of the sample groups required for stages three, four and five are discussed in more detail later in this chapter, this section provides information about overarching issues related to the sample population per se.

The target population of this study was the financial planners and compliance officers engaged by AFS Licensees to provide financial advisory services to Australian consumers. As discussed in Chapter 3 of this thesis, it has been estimated that there are 15,252 financial advisers in Australia providing advice for the largest 100 financial advisory groups (Money Management Magazine 2007). The number of compliance officers within AFS Licensees is harder to estimate, as small AFS Licensees (defined as fewer than 10 advisers) do not have to engage a specific officer in that role and large AFS licensees (defined as more than 50 advisers) may have whole compliance departments with many personnel in compliance roles. However, based on estimates that there are only 100 AFS Licensees with 10 or more financial advisers (Money Management Magazine 2007), it was assumed that the number of compliance officers within the population must be at least 100.

Securing access to a large sample group of financial planners to participate in the study became one of the major problems encountered throughout the course of the thesis. Letters seeking permission to access the membership databases of the FPA, CPA Australia and the ICAA for the purposes of this research were sent to each association in November 2005. A copy of the proforma letters used for this purpose is attached to the thesis as Appendix C.4. These letters were followed up with meetings with the CEO or Head of Financial Planning at all three professional associations between January and February 2006.

In April 2006, the CEO of the FPA gave a verbal commitment to allow the study to access its member database so as to draw a representative sample group of financial planners to take part in the main survey questionnaire. Numerous meetings were then conducted over a two year period with FPA management to discuss the interaction of the study with FPA strategic objectives. However, a change in 2007 at both FPA CEO and senior management level, led to a decision by the FPA in October 2007 to allow Deakin University access to its membership database for future purposes of a study conducted by that University, Deakin University having additionally secured participation by ICAA and CPA Australia.

During the period October 2007 to February 2008, there was significant negotiation with both Deakin University and the FPA to explore the possibility of linking the two studies. The FPA was supportive of that move. Ultimately, Deakin University advised by email in February 2008 that it would complete its own study. However, it agreed to link the two studies by granting permission for this study to use one of its ethical case scenarios, titled "Business Referrals" in the FAIT instrument.

By this time, the FPA had agreed to assist this study in a number of ways in exchange for the study's data being made available to it to inform the FPA's professionalism strategies. Firstly, it agreed to co-convene a focus group session for the purposes of this study in November 2007 at its National Conference. Secondly, it agreed to endorse the study to its financial planning members as part of its broader professionalism program and encourage members to participate in the main research questionnaire by way of email notification. Thirdly, it also accredited the main research instrument as part of its continuing professional development program, as a further incentive for members to participate.

However, this still left the study without access to a significant financial planning member database from which to select a random sample of subjects to participate in stages three and five of the research. A number of other options were then explored.

The derivation of a sample group of financial planners using the public ASIC database of authorized representatives was considered and rejected for practical reasons, including that it would have been very difficult to ascertain from that database whether the representative came from the study's population.

Other indirect methods of research, such as those advocated by Hewson, Laurent and Vogel (1996), where researchers solicit respondents who in turn must contact the researcher to participate in the study were also rejected. This was primarily because of the time it would take to identify contact details; to approach potential respondents and then obtain responses.

Further initiatives to secure a sample group were then undertaken with the assistance of the FPA. A snowball sampling technique was applied to locate members of the population to assist in obtaining access to the sample group by referral (Zikmund 2003). This form of purposive sampling was appropriate given it was necessary to reach a specialised population (Cavana, Delahaye & Sekaran 2001).

With the consent of the FPA, contact was made with the members of the FPA Professional Conduct Committee, of which the researcher is a member, for this purpose. The 12 members of that committee were compliance officers and responsible officers of AFS Licensees. They were invited to participate in the study themselves and encourage the advisers under their supervision to do so. An invitation was also extended to the 50 members of a financial services discussion group, of which the researcher was also a member, to participate in the focus group, pilot study or questionnaire stages. In return for participation, a summary of the aggregated results of the study was offered to both groups. These invitations were both duly accepted.

To ensure sufficient respondents were available to undertake the study, discussions also took place with Argyle Lawyers Pty Ltd, a boutique legal firm based in Sydney and Melbourne of which the researcher is a Principal and which has a specialist financial services division. The firm agreed to allow access to its financial services client database and financial services marketing contact lists, to assist in deriving a purposive sample for the purposes of the distributing the main research questionnaire.

To ensure that subjects who participated in the study from these varied sources were members of the specialised population required, the study then utilised a non-probability sampling design (Cavana, Delahaye & Sekaran 2001). Firstly, a purposive sampling technique was used to ensure that the subjects in each sample met certain characteristics appropriate to members of the two groups within the population (Zikmund 2003). There were two selection criteria for financial planners:

(1) the candidate had to represent or be authorized to represent an Australian Financial Services Licensee; and

(2) the candidate had to be involved in the provision of financial advice to clients.

These candidates were not required to be members of a professional association to qualify for participation.

The selection criteria for compliance officers were:

(1) The candidate was engaged by an AFS Licensee in a regular compliance role, whether as a compliance officer, compliance manager or compliance consultant to the organisation; and/or

(2) The candidate was responsible for the AFS Licensee's compliance with its obligations under the Act; either as a director or responsible manager of the AFS Licensee.

These candidates did not have to have any specific training in compliance to be included in the sample group, or be a member of a professional association such as the Australian Compliance Institute, although some respondents met these additional elements.

The criteria for those who could participate in this study as compliance officers was extended to include consultants, directors of AFS Licensees and responsible managers, for a number of reasons. Firstly, often the responsibility for compliance in an AFS Licensee is assumed by those who own the company or who are responsible for its overall management. Secondly, some AFS Licensees, irrespective of size, outsource their compliance function to third party companies or contractors.

Table 5.1 below outlines the sample groups used for stages three, four, and five of the research and the number of subjects for each stage.

Table 5.1: Sample groups for the research phases of the study.

Sample used	Stage of project	Sample size.
1. Financial planners and compliance officers	Stage 3 - Focus group	54
2. Financial planners and compliance officers	Stage 4 -Pre-testing	54
3. Financial planners and compliance officers	Stage 5 - Main research questionnaire	770

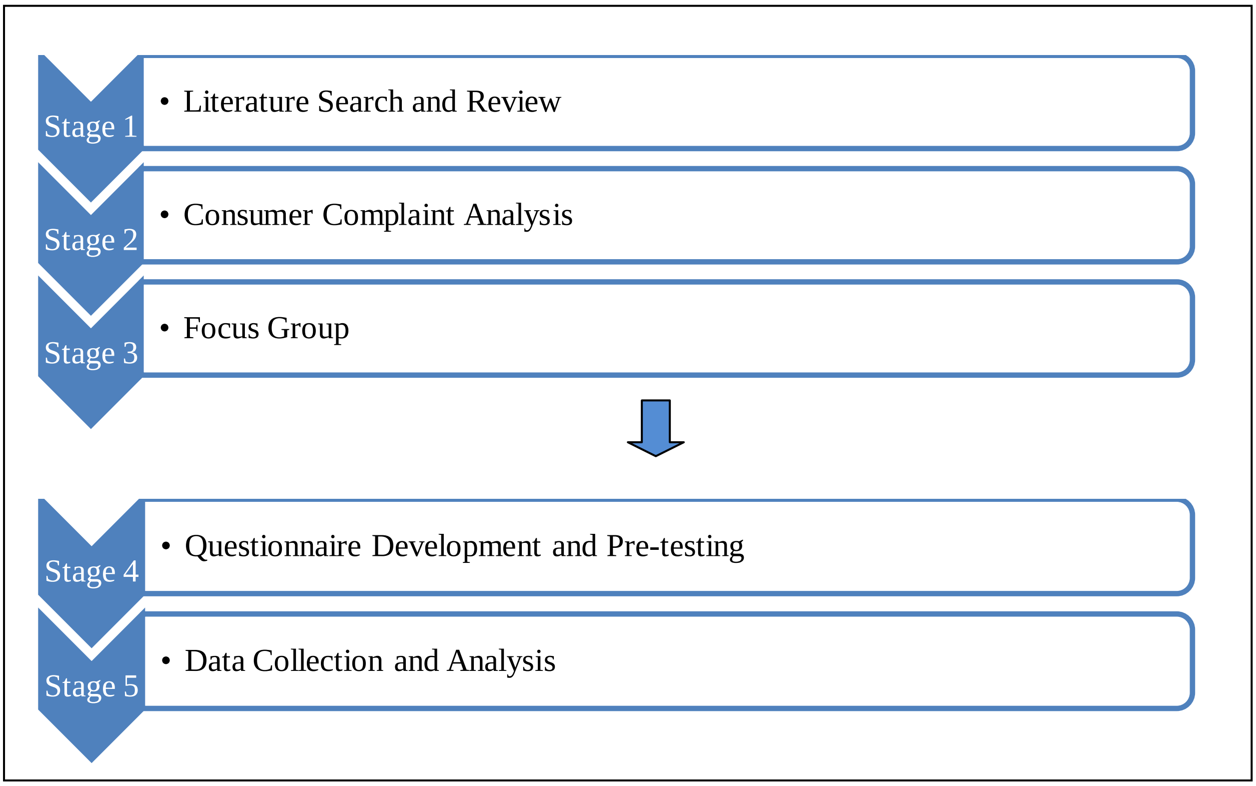
***Source*: developed by the researcher.**
Legend *F.P = Financial Planner, **C.O. = Compliance Officer.

Subjects who took part in the focus group were eligible to participate in the main research questionnaire. However, subjects who participated in the pre-testing of the main research instrument were not eligible to participate in stage five of the research.

5.2.3 The research stages

The research was conducted in five stages to ensure it was undertaken in a sequential and ordered manner. These stages are highlighted in the Figure 3 below. Stage one of the research involved the literature search and review. Details of the literature searches undertaken and databases explored are discussed in section 5.3 of this Chapter.

Figure 3: The research stages adopted for the study.



***Source*: developed by the researcher.**

Stage two of the research comprised a quantitative analysis of decisions by the three external decision makers, namely the Australian courts, ASIC and the FOS in 2006 & 2007 in adjudicating consumer complaints about the conduct and behavior of financial planners and AFS Licensees.

The methodology adopted in this stage of the research is described in section 5.4 of this Chapter in detail. In summary, quantitative research methods were used in this stage to discern primary forms of unethical conduct by financial planning respondents in the provision of financial advice. This stage included the collation and analysis of data related to the study's case study on financial advice given to consumers to invest in Westpoint.

Qualitative research methods were utilised in stage three of the research which comprised the convening of a structured focus group of financial planning respondents. The purpose of the focus group was to present a richer and more complex description of the perceptions and attitudes of the study's participant groups to the current ethical issues facing them in their respective roles as financial planners and compliance officers and the factors that the respondents believed may be influencing ethical decision making in their organisations. The methodology associated with this stage of the research is outlined in detail in section 5.5 of the Chapter.

Stages two and three of the research were considered to be an integral part of the research design for a number of reasons. Firstly, the literature review, described in Chapter 3 of the thesis, discussed anecdotal evidence of unethical conduct by financial planners and AFS Licensees and numerous ethical issues in the provision of financial advice. However, the literature review undertaken for this thesis found no previous empirical studies of the primary types of unethical conduct of financial planners in Australia or studies of the issues that financial planning respondents believed were influencing their ethical decision-making.

Given this study also measured the theoretical relationships between the ethical decision making of financial planning respondents and numerous constructs (Abdolmohammadi & Sultan 2002), it was considered important to generate empirical data about current patterns in unethical conduct, so as to enhance understanding of the results from this study overall and for comparative analysis against the quantitative data collected from the main research instrument. In addition, data from stages two and three of the research design also instructed the development of the main questionnaire instrument, used in stage four of the project.

Stage four of the research comprised the development and pre-testing of the main research questionnaire. The purpose of the questionnaire was to collect quantitative data against which to measure the nine hypotheses posed by the thesis. The design and pre-testing of this instrument is discussed in more detail in sections 5.6 and 5.7 of this Chapter.

The fifth stage of the study involved the collection and analysis of the data from the responses to the main research questionnaire. This analysis included the distribution of frequencies and response rates for each of the four sections of the questionnaire.

Means, medians, standard deviations and reliability scales were conducted for sections 3 and 4 of the questionnaire in particular.

Each stage of the research will now be discussed in turn.

5.3 Stage 1: Details of the Literature Search and Databases Explored

Stage one of the research involved a review of the academic literature related to the theories and variables to be studied. To undertake this review, the databases outlined in Appendix C.1 were searched. These databases were accessed through the Victoria University Library and various internet search engines, such as Google Scholar.

Searches of the academic literature were conducted intermittently between January 2004 and December 2007. The search was completed at that time so as to concentrate on the development of the research questionnaire and other elements of the methodology. These literature searches were undertaken using the combination of words and phrases outlined in Appendix C.2 titled “Key Word Search Terms”.

Documents related to the work and operation of the Australian professional associations in the financial services sector were primarily derived from the online websites of those Associations as listed in Appendix C.3.

Literature searches related to the law associated with the provision of financial services advice and its regulation, including Australian case law, the enforcement and administrative decisions of ASIC and the determinations and complaints data of the FOS, were also conducted utilising the sources outlined in Appendix C.3.

Media references and other material associated with the current issues within the financial planning industry were identified by searches of media, industry and government websites which are also identified in Appendix C.3. These searches were conducted intermittently between March 2004 and November 2008.

5.4 Stage 2: Determining the Primary Types of Unethical Conduct in the Provision of Financial Advice

Research question one concerned the determination of the primary types of unethical conduct exhibited by financial planners in the provision of financial advice to Australian consumers. This question did not require a hypothesis as no relationships were tested in the analysis.

A quantitative methods research approach was adopted to answer this research question. This clarification investigation was conducted in stage two of the study to provide a clearer understanding of the types of unethical conduct that occur in the financial planning sector (Cavana, Delahaye and Sekaran 2001). This research also informed the study of the practical application of some of the concepts being measured

Stage two of the research comprised an analysis of secondary source material related to consumer and regulator action determined against financial advisers and AFS Licenses between 2006 and 2007. The purpose of the analysis was three-fold. One purpose was to determine the primary types of unethical conduct by financial planners in the provision of financial advice. The second purpose was to determine the areas of financial advice most at risk of unethical conduct. The third purpose was to identify patterns in the data upon which to base the three profession specific case scenarios developed for the FAIT instrument in section 4 of the main research questionnaire. This was to ensure that the topics chosen were relevant to the ethical risks faced by financial advisers in their daily financial planning practice.

The secondary source material used in this investigation was sourced from the published reasons for decision made between 2006 and 2007 by external decision makers, who adjudicate matters related to consumer complaints against financial planners and AFS Licensees.

The first source of material for analysis was decisions made by Australian courts during the relevant period, arising from civil actions brought by consumers against financial advisers and AFS Licensees, alleging negligent financial advice. The second source was the published administrative decisions and enforcement actions brought against financial planners and financial planning organisations by ASIC, with a primary emphasis on banning orders and enforceable undertakings. In addition, Administrative Appeals Tribunal (AAT) and Federal Court hearings reviewing ASIC decisions and enforceable undertakings during the relevant period were also identified for analysis.

The web-based AustLii Legal case database at www.austlii.edu.au/databases.html was searched to identify relevant decisions from civil actions against financial planners and AFS Licensees considered by Australian Courts and administrative appeal decisions made by the Federal Court and Administrative Appeals Tribunal. To be considered for analysis, the action had to meet certain criteria as follows:

- the decision had to be a final determination of the matter in 2006 – 2007;
- the action had to allege negligent advice by a financial adviser or AFS Licensee to a client; or
- the matter had to concern a review of an ASIC administrative decision against a financial adviser related to the provision of financial advice to retail clients, or to vary or terminate the License conditions of an AFS Licensee.

Actions involving unlicensed persons giving advice such as accountants, solicitors or banks acting in their lending capacity, were excluded.

A Boolean Logic search of the AustLii Legal Case Database for decisions matching these criteria was conducted using the terms “negligence and financial adviser”, negligence, financial and adviser”, “unethical conduct and financial adviser”, “Westpoint and financial adviser”, “financial product advice”, “financial adviser”, “negligence and financial advice” and “Australian Financial Services Licensee”.

The following criteria were established for the searches conducted of the ASIC banning orders and enforceable undertaking registers at www.asic.gov.au/registers/bannedanddisqualifiedpersons/AFSBanned/Disqualifiedpersons.html and at http://www.asic.gov.au/register/enforceableundertakings/html:

- the ASIC decision must have been made against a financial adviser or AFS Licensee in 2006-2007 and concern financial advice given to consumers; and
- the decision must not relate to securities advisers or mortgage brokers.

The third source was the determinations of the FOS Panel made in 2006 & 2007. These determinations were sourced from the FOS website at www.fics.asn.au/determinationsand adjudicationsarchives/html. Determinations related to complaints against financial planning members of FOS about advice consumers had received to invest in the Westpoint group of companies were of particular relevance.

The analysis of the data, once sourced, was undertaken using a content analysis approach so as to determine themes in unethical conduct that emerged from the data. Content analysis usually comprises 15 steps, although they are not necessarily followed in a strict linear order as interaction and overlapping occurs and can be modified (Cavana, Delahaye and Sekaran 2001). The analysis undertaken for the purposes of this thesis followed a nine step abridged process outlined below in Table 5.2.

Table 5.2: Content analysis process adopted for stage one data review.

STEP	PROCESS
Step 1	Identification, preparation and organisation of the secondary data (the decisions) from the different sources.
Step 2	Development of the Ethical Principles Schedule against which to determine the presence of unethical conduct within the fact situation outlined in the decision.
Step 3	Allocate a unique source code and abbreviation for each Principle (theme) and decision to assist efficiency and tracking data.
Step 4	Download copies of all relevant decisions for review and store in electronic files.
Step 5	Review each written decision against the definitions assigned to the ethical principles outlined in the Ethical Principles Schedule, to identify breaches using a selective coding process and record unethical conduct.
Step 6	Tabulate and code these breaches against the coding system established for this purpose.
Step 7	Undertake a constant comparative analysis when second and third themes in relation to the financial advisory process emerge from the data.
Step 8	Develop and retain a list of abbreviations and a brief description of each theme into a data index.
Step 9	Undertake a mapping process to investigate and construct relationships across the thematic categories and to conduct a comparative analysis across decisions from the different sources.

***Source*: developed by the researcher**

This process was additionally undertaken for the purposes of the case study, so as to analyse the data from decisions concerning Westpoint investments.

In relation to step 2, to ensure each theme identified from the data had a separate primary identity, the combined ethical principles from the Code of Ethics of the four primary professional associations within the financial services sector (in terms of membership numbers outlined in the Table 3.1, was used to devise an Ethical Principles Schedule. This Schedule provided eight defined themes against which to analyse the conduct of the adviser from the facts outlined in each written decision. The Ethical Principles Schedule is contained in Appendix C.5. The description used for each principle in the Schedule was developed from the combined definitions described previously in this thesis in Table 3.2 and Appendix B.

The Codes of Ethics of these professional associations were used for this purpose based on the likelihood that the external decision makers considered the professional standards of the industry in determining each matter before them. It is argued for the purposes of this thesis that these principles would therefore have been applicable to the conduct of the adviser who was the subject of the complaint.

The term “Compliance” appears in the Ethical Principles Schedule because it appears in all four Professional Association Codes of Ethics. The term requires the member to comply with the Association’s other ethical principles within the Codes of Ethics. It was deemed to have been breached every time a member did not so comply.

5.5 Stage 3: Identifying the Current Ethical Issues facing Financial Planning Respondents in their Roles.

Qualitative research techniques were adopted to collect data related to research question 2 and the perceptions of financial planning respondents of the current ethical issues they believe face them in their respective roles and their views on what influences decision-making within their organisation.

This study has used the term “focus group” to describe the technique used to convene a group of financial planning respondents for the purpose described above. Cavana, Delahaye & Sekaran (2001) have described the focus group method as a technique designed to collect information through group interaction on a topic determined by the researcher.

In terms of logistics, the focus group model as described by Cavana, Delahaye & Sekaran (2001) was adopted in this study and is outlined in Table 5.3 below.

Table 5.3: Focus group model adopted for stage three of the study.

Stage	Process
Stage 1	the group was structured and a formal email invitation was sent to the potential respondents to attend the session.
Stage 2	the group was convened at a common time and place for a one hour session.
Stage 3	the agenda was set and presented to the group at the commencement of the session.
Stage 4	the session was tape recorded and transcribed to the specified agenda.
Stage 4	visual aids such as a PowerPoint presentation, post-it notes, butcher's paper and written materials were used;
Stage 5	three questions put to the group during the session were predetermined; and
Stage 6	the Facilitator guided and controlled the group interaction during the session.

***Source*: developed by the researcher**

However, a number of elements from other techniques were also adopted, such as elements from nominal group theory (Potter, Gordon & Hamer, 2004) and Delphi group theory (Nehiley 2001, Cunliffe 2002). This was done to meet the time constraints associated with the duration of the group session conducted and to achieve the desired objectives.

For example, the group session differed from a traditional focus group session in some respects in that not all responses by respondents were verbalised (Breslin *et al.* 2005). Hence respondents did not hear all contributions made by each other during the session, but rather read them. As a result, unlike a traditional focus group, the group thinking in relation to the first two questions posed in this session only took place informally in the interaction between respondents, as they went about their tasks. This informal interaction was not always captured on the tape recording.

Further, the methodology borrowed from the nominal group technique (Cavana, Delahaye & Sekaran 2001) in that group members were asked to consider and then provide their responses to questions in written form. This approach was used so that dissenters and introverted respondents in particular were given an equal opportunity to share their view with the group (Patton 1990).

An attempt was made to conduct a focus group session on 22 November 2007 drawn from approximately 350 conference delegates, comprising both financial advisers and compliance officers, who attended the first day of the 2007 FPA National Conference at the Sydney Convention Centre. This session was held with the consent of the FPA on the basis that a summary of the key data arising from the group's discussions would be shared with the FPA. Delegates were invited by the master of ceremonies to attend the lunchtime focus group session at the commencement of the conference, at the morning tea break and again at the commencement of the luncheon break. However, no delegates chose to attend the focus group session.

A purposive sampling technique was subsequently adopted for the purposes of convening another focus group held on 6 February 2008. An email invitation to attend this session was sent to the 54 members of a financial services forum that meets approximately four times per year to discuss financial planning issues. The group had previously agreed to participate in the study following initial discussions with the Chair and Deputy Chair of the group. Nineteen of the 54 invitees participated in the focus group session, which was recorded and transcribed. The transcript forms Appendix D. 10 of this Thesis.

The Agenda for the session commenced with attendees being thanked for their participation, given an overview of the PhD study and a PowerPoint presentation outlining the context of the research, the role of the focus group and their role as a respondents. The PowerPoint presentation is annexed to this thesis at Appendix C.6.

Attendees signed a form consenting to their participation in the focus group. That consent form is appended to this thesis as Appendix C.7.

During the session the respondents were asked three set questions in turn:

Question 1 - What are the current ethical issues facing financial planners?

Question 2 - What are the current ethical issues facing compliance officers in their roles?

Question 3 - What are the factors you believe are influencing the ethical decision-making of financial planners and compliance officers?

Due to time constraints, it was envisaged that respondents would spend 15 minutes on each of the three questions with the remaining 15 minutes being taken up with an introduction to the session and a summary on completion.

To respond to question one, each participant was asked to write their top three ethical issues facing financial planners on separate post-it notes and then place the three post-it notes onto butcher's paper, which had been hung on the walls around the room. Each piece of butcher's paper was identified with a heading that corresponded to the ethical principles outlined in Appendix B. Respondents were asked to place their post-it notes under the heading they believed was most relevant to each of their three issues.

Respondents were then asked to review all of the post-it notes placed on the wall, irrespective of grouping, and then rank their top five ethical issues. Each participant was free to choose their own three issues among their five choices or choose issues placed on the wall by other respondents. The five choices were identified by each participant by the placement of coloured plastic numbers 1, 2, 3, 4 or 5, purchased by the researcher, against the issues they believed were most important.

This process was then repeated for question two, with new butcher's paper being hung where required.

After consultation with the group, the technique used to respond to the third question changed and a group interview process was adopted (University of Technology Sydney, 2002). Each participant taped their verbal response to question 3 in turn, some respondents building on the response of the previous participant, some raising independent thoughts.

Respondents were then asked to provide some closing remarks, were given a summary of proceedings and then thanked for their attendance.

In accordance with guidance in Kruger (1988), a number of controls were implemented into the process to assist respondents to answer questions based on their genuine perceptions. These controls included:

- the use of the post-it notes for placing issues on butcher's paper in an anonymous fashion;
- a guarantee of anonymity by the researcher for each of the respondents and their responses outside of the group activity;
- that participation was voluntary;
- the ability of participants to decline to answer any questions asked or to withdraw from the group at any time;
- that no sensitive information would be requested; and
- the establishment of common rules of engagement agreed to by all respondents at the commencement of the session.

An interpretative approach was taken to the analysis of the data arising from the session. As the three questions used in the session were pre-planned, they provided one set of themes for the analysis, namely ethical issues facing financial planners, ethical issues facing compliance officers and factors influencing ethical decision making within financial services organisations. A second thematic level was derived for questions 1 and 2 from the groupings of responses by respondents against the Ethical Principle Headings.

To uncover various sub-themes associated with the data from all these questions, a modified grounded theory technique was used as described in Table 5.4 below (Cavana, Delahaye & Sekaran 2001; Greenbaum 2000).

Table 5.4: Steps taken to interpret raw data from the focus group session

Step	Description of task
1	Raw data for all three questions was prepared, organised and reviewed for emerging themes associated with the financial advisory process and organisational systems (Cavana, Delahaye & Sekaran 2001).
2	A theme coding system was established using abbreviations of financial advisory terms and different coloured highlighter pens to accentuate different themes (Patton 1990).
3	A constant comparative analysis was undertaken to collate a data index and complete the open coding of data (Neuman 1997).
4	A selective coding process was then undertaken to ascertain data illustrative of the emerging themes and sub themes (Neuman 1997).
5	A mapping process was completed where data was grouped in table form against the identified themes.

***Source*: developed by the researcher**

The outcomes of the focus group session are presented in Chapter 6. However, the data also informed the development and design of the main research questionnaire, which is discussed in the next section of this Chapter.

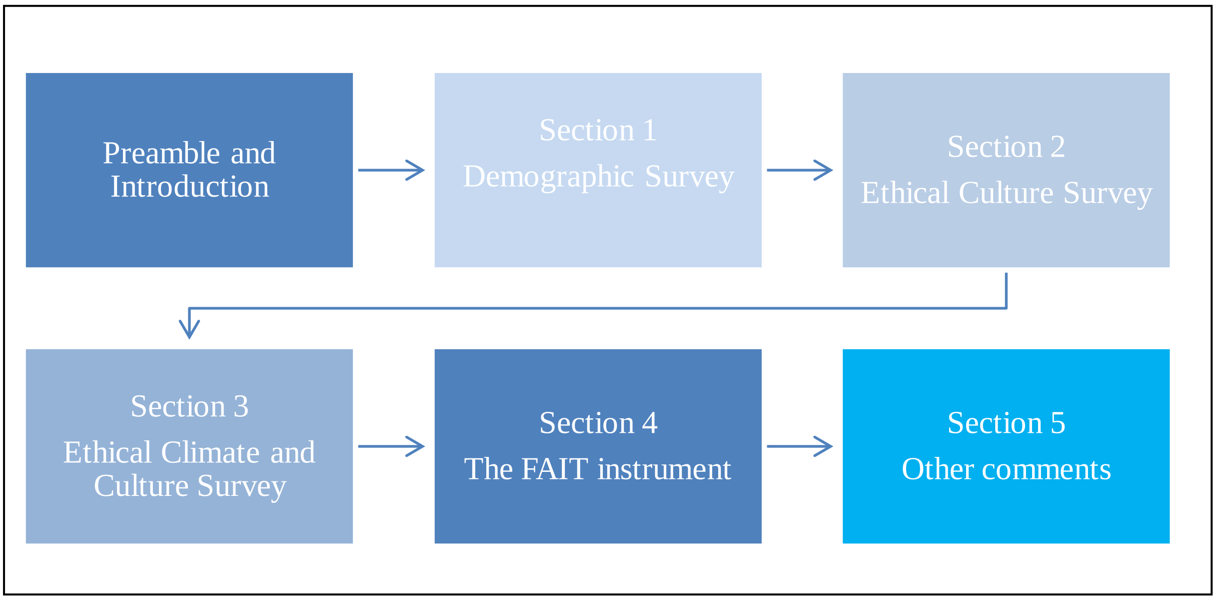
5.6 Stage 4: The Design of the Main Research Questionnaire and Pre-testing

5.6.1 The design of the main research instrument

The design of the main research questionnaire and its pre-testing were the focus of stage four of the research design. The use of a questionnaire for data collection and subsequent hypothesis testing was preferred for the purposes of this study on the basis that the results could be easily quantified and could provide suggestive data for hypothesis testing.

The main research instrument had a number of different elements as illustrated in Figure 4 below.

Figure 4: The six elements of the main research instrument



***Source*: developed by the researcher.**

The main research instrument took the form of a questionnaire comprising a preamble and introduction and five sections. Each of the sections of the questionnaire and its respective development will be described in turn in sections 5.6.2 to 5.6.6 of this Chapter. However, in summary the measuring items within the questionnaire were primarily derived from previous studies. These items comprised a demographic survey in section 1, an ethical culture survey in section 2, an ethical climate and culture survey in section 3, the FAIT instrument in section 4 and a section for other comments and feedback by respondents in section 5.

The main research questionnaire was designed for distribution by email link through an online server. Buchanan, (2004, p.131) has advised that the internet offers many advantages over traditional paper and pencil survey methods, including the ability to reach geographically dispersed samples, such as in this study, where respondents came from across Australia. Other advantages included lowering the costs of the survey (Dillman 2000), reducing missing or erroneous data, reducing the time from data collection to analysis and convenience (Baron 2000). Responses by web have been found to be equally as accurate as telephone or postal surveys in predicting behaviours (Roster *et al*. 2004).

Conducting the questionnaire in an online environment further allowed for potential respondents to be pre-notified of the survey by automatic email distribution and multiple reminder emails to be sent to only those respondents who had not completed the survey within the set timeframes (Dillman, Tortora & Bunker 1999).

Many researchers have compared e-mail surveys with other modes of respondent contact (Sheehan & Hoy 1999). It was accepted that response rates for the main research questionnaire for this study may be linked to respondent familiarity with the internet (Schonland & Williams 1996). However, it was assumed that the study's respondents were internet literate given their professional work background.

Some technical design elements suggested by other studies were incorporated into this study's web survey to assist respondents and achieve a higher and more accurate response rate. For example, the survey allowed for mouse only entry of responses to some items, drop down selection menus from which to choose an appropriate response to other items and an open ended text box to provide comment and feedback in section 5 (Schonland and Williams 1996). Other mechanisms suggested by Dillman, Tortora and Bowker (1999) to increase response results were also incorporated into the design. These included a preamble and introduction and the ability of respondents to move backwards and forwards between questions using the scrolling function.

For the purposes of this study, an access pathway to the survey site was delivered to respondents via email link. Respondents were given information about the survey in the email. Further detailed information about the survey was located on the front page of the survey instrument itself in the preamble and introduction.

In designing the research instrument, practical considerations related to the length of the main research questionnaire, such as time availability and subject fatigue, were taken into account (Thorne 2000). Sheehan and Hoy (1999) for example, have suggested that a long survey instrument is likely to add to the transactional burden of the recipient, making it harder to process and therefore decreasing the likelihood the survey will be completed and leading to lower response rates.

However, this research required a number of different sections and scales so as to measure all of the constructs identified. To overcome these problems, attempts were made to restrict the response time for completion of the survey to 45 minute to one hour. This time frame meant an application could be made to the FPA to accredit the instrument with one continuing professional development point in Generic Knowledge (Ethics) for any FPA member who completed the instrument. This was equivalent to their entire annual professional development requirement in this subject. The FPA accreditation number for the instrument was 003323.

As previously mentioned accreditation also formed part of the FPA's overall endorsement of the study. This accreditation was also considered a very important incentive for respondents to complete the survey.

5.6.2 Section 1: The demographic survey

In order to present a demographic profile of the sample and to measure the relationships between individual, situational and contextual factors and cognitive ethical reasoning, as posed by research questions 3, 4, 5 and 6, a demographic survey was required. This survey formed Section 1 of the research questionnaire.

A replicated version of Bigel's (1998) demographic questionnaire, adapted to the Australian financial services environment, was used to inquire into the respondent's level of education; employment; remuneration source; career experience; age; gender; size of organisation and Australian state of residence. The response groupings for the survey are outlined in Table 5.5 below.

The response groupings for survey questions 1 and 2 were required to ensure the criteria for participation in the study was met and to distinguish between the respondents from the two sample groups. The other demographic information was relevant to the measurement of a number of the study's hypotheses.

Table 5.5: Response groupings for demographic questions

Demographic question	Response Groupings	Link to study requirements
1. Do you represent an Australian Financial Services Licensee in the provision of financial advice under the Corporations Act (2001)?	Yes or No	Criteria for participation
2. Do you hold the following role or roles within your Licensee?	Financial Adviser; Compliance Officer; Responsible Officer	Criteria for participation Hypothesis 5
3. Which type of Licensee do you work for or represent?	Small – 0 to 9 advisers Medium – 10 to 50 advisers Large – 50+ advisers	Hypothesis 3
4. Please state the highest education level that you have attained?	Diploma Financial Planning; Advanced Diploma Financial Planning; Undergraduate; Post Graduate; Other.	Hypothesis 2
5. Do you hold a Professional Designation?	CFP; CA; CPA; Other	Hypothesis 2
6. Are you a member of the following Professional Associations?	ICAA; FPA; CPA; NIBA; SDIA; ACI; None of the above	Hypothesis 2
7. How are you primarily remunerated?	Salary; Commission; Fees; A combination of fees and commissions	Hypothesis 4
8. Number of years experience as a financial adviser or compliance officer	0-5 years; 6-10 years; 11-15 years; 16-20 years; > 20 years	Hypothesis 2
9. Please state your gender	Male or Female	Hypothesis 2
10. Your Age	20 - 29; 30 - 39; 40 - 49; 50 - 59; 60+	Hypothesis 2
11. In which State do you reside?	NSW; Vic; Qld; SA; WA; Tas; NT; ACT.	Descriptive statistics

***Source*: developed by the researcher.**

As identified in Chapter 3, the groupings in:

- question 3 corresponded to the definition of small, medium and large financial services organisations used by financial industry surveys;

- questions 5 and 6 corresponded to all major professional associations in the financial planning industry and the four major professional designations usually held by financial planners; and
- question 7 represented the primary remuneration structures for financial planners.

5.6.3 Section 2: Ethical culture survey

Research question 6 measured the relationship between the construct of ethical culture and cognitive ethical reasoning (6A) and examined the presence of formal and informal systems and procedures within AFS Licensees that Trevino, Butterfield and McCabe (1998) would expect to discern in an organisation with an effective ethical culture (6B).

Appendix C.8 to this thesis contains a list of the ten ethical culture elements measured in sections two and three of the main research questionnaire. These elements were derived from items outlined in the Australian Standard on Fraud and Corruption Control (Standards Australia 2003b, p.19). As was discussed in Chapter 2 of this thesis, this standard forms part of the Australian Standards on Good Governance Principles (Standards Austraila 2003a).

The Ethical Culture was operationalised by a nine item scale in section 2 of the questionnaire and responses to the Ethical Environment scale in the Ethical Climate and Culture Survey in section 3 of the questionnaire. The only element not measured in this thesis was whether the AFS Licensee had a program for the continuous benchmarking of ethical standards.

The ten elements measured and identified in Appendix C.8 were:

- ethical frameworks;
- codes of behaviour;
- allocation of ethical responsibilities within the organisation;
- the establishment of ethics committees;
- communication strategies;

- ethics training;
- reinforcement and rewards mechanisms;
- reporting of complaints;
- senior management commitment; and
- compliance requirements, enforcement and regulation.

The Section 2 scale, called the "Australian Standards Compliance Index" (ASCI) for the purposes of this thesis, provided evidence of the number of AFS Licensees represented in the survey sample, who currently comply with the Australian Standards in this area.

5.6.4 Section 3: Ethical climate and culture survey

Research question 7 required the perceptions of respondents of ethical climate dimensions to be measured, so as to explore the second level of correlational relationships examined in this study, namely the contextual factors within AFS Licensees that influence the ethical decision making of financial planners and compliance officers. This research question was linked to hypotheses 6, 8 and 9 which measured respondents' perceptions of ethical climate and its interaction with other constructs, such as cognitive ethical reasoning and ethical leadership.

The ethical climate construct was measured using a modified version of the ethical climate and culture scale created by Trevino, Butterfield & McCabe (1998) as discussed in Chapter 2 of the thesis. This quantitative measure was presented in Section 3 of the main research questionnaire.

The Ethical Climate and Culture Survey used in this thesis comprised 42 items and ten sub scales, being nine ethical climate dimensions and an ethical environment scale. The items measured the organizational characteristics, ethical climate and culture of the financial services organisations. The items were grouped under headings that corresponded to Victor and Cullen's (1988) nine theoretical dimensions climates, as outlined previously in Chapter 2.

The original scale used by Trevino, Butterfield and McCabe (1998) was modified to ensure it was contemporary and relevant to an Australian financial services environment. There was also concern that some of the original scale headings may lead to bias in the responses when considered in a financial planning context. For example the heading “Self Interest” in the original survey, was changed to “Locus of Control”, and the heading “Obedience to Authority” was changed to “Situational Context”. This was done to reduce any bias or impression management issues that may arise from the use of certain terminology within the scale. In addition, the word “Organisation” was changed to ‘Licensee” to more appropriately reflect the language and structure of AFS Licensees and because some respondents to the questionnaire were agents and not employees of the organisation they were assessing.

Table 5.6 below compares the number of items used in the Trevino, Butterfield and McCabe (1998) scale against the pilot survey and main research questionnaire used in this study. The nine ethical climate dimensions that appear in the table have all been previously defined in Chapters 2 and 4 of the thesis. The tenth scale, the ethical environment scale, comprised five elements for measurement, including the degree to which unethical behaviour is punished and ethical behaviour is rewarded; the degree to which the internal ethics code is effective in promoting ethical behaviour; whether senior managers act as models of ethical conduct and the existence of other ethical norms.

In addition, Appendix C.9 of this thesis describes the individual items for all nine dimensions from the original Trevino, Butterfield and McCabe (1998) scale when compared to the items used in both the pre-test and main data collection stages of this thesis.

Table 5.6: A comparison of ethical climate and culture items used in the Trevino, Butterfield and McCabe (1998) survey, the pre-test survey and the main research questionnaire.

Survey Heading	Includes	Trevino et. al. (1998) questions	Pilot Survey	Main Survey
Ethical Environment (derived from ethical culture items)		**14**	**10**	**10**
	Degree to which unethical behaviour is punished	3	2	
	Degree to which ethical behaviour is rewarded	3	3	
	Leader as role model	4	3	
	Degree to which ethics code is effective in promoting ethical behaviour	2	1	
	Ethical norms	2	1	
Employee Focused		**6**	**6**	**6**
Community		**4**	**3**	**3**
Locus of Control (derived from culture items)		**3**	**3**	**4**
Code implementation (derived from culture items)		**4**	**4**	**4**
Situational Context		**2**	**3**	**3**
Efficiency		**4**	**3**	**4**
Rules and procedures		**2**	**2**	**2**
Personal ethics		**3**	**3**	**3**
Law and professional codes		**2**	**2**	**3**
Total: 10		**44**	**39**	**42**

***Source*: developed by the researcher**

All items within section 3 were operationalised using a seven point Likert scale to yield measures of agreement with statements made in the survey. The responses ranged from strongly disagree to strongly agree as outlined in Figure 5 below.

Figure 5: Likert scale measurement used for section 3 of the main research questionnaire.

Strongly Disagree			**Neither Agree nor Disagree**			**Strongly Agree**
1	2	3	**4**	5	6	**7**

***Source*: developed by the researcher**

This section of the questionnaire did not set out to measure the extent to which respondents had observed unethical behaviour over the past year.

5.6.5 Section 4: The Financial Advisory Issues Test

The literature review revealed that two of the primary research instruments used to measure the independent variable cognitive ethical reasoning, were the DIT and the DIT 2 (Rest *et al*. 2000).

The DIT and DIT 2 instruments have previously been modified by other researchers by substituting the traditional moral dilemmas used in those instruments for profession specific ethical case scenarios (Thorne 2000; Borenstein *et al.* 2006). As the Literature review did not identify a profession specific instrument to measure the cognitive ethical reasoning of financial planning professionals, this study developed its own, called the Financial Advisory Issues Test (FAIT).

The FAIT instrument was based on the DIT 2 instrument. However, unlike the DIT 2, the FAIT instrument consisted of four paragraph length hypothetical dilemmas, instead of five (Rest *et al.* 1999c). The number of dilemmas was reduced due to the time pressures already on respondents given the length of the main research instrument. Thorne (2000) has argued it is possible to update, shorten or revise the DIT and DIT2, without sacrificing validity.

For the purposes of the FAIT instrument, four profession specific case scenarios that described ethical dilemmas which regularly arose in the daily professional practice of a financial planner were required. The fact situation for case scenario number 1 was developed by and used with the permission of Deakin University. The scenario described the conflicts of interest that can often result when advice to a financial planning client and other business relationships overlap.

This fact situation also corresponded to data from the focus group session, which identified commercial conflicts of interest as a significant ethical issue facing financial planners and compliance officers in their roles.

The fact situation for the other three case scenarios used in the FAIT instrument were developed using an eight step process adapted from Thorne (2000) and Borenstein, et al. (2006) in their respective studies. This process is illustrated in Table 5.7 below. The 12 issues identified for the Deakin scenario were also developed using steps 3 to 8.

Table 5.7: Development of the FAIT instrument case scenarios

Step	Process
Step 1	Data from stages one, two and three of the research was analysed to determine the primary areas of financial advice that were associated with unethical conduct by financial planning respondents. These areas included advice on superannuation products, advice in relation to managed investment schemes and Westpoint and advice associated with gearing and margin lending.
Step 2	Three FOS decisions associated with these areas of financial advice were then identified and converted into a hypothetical scenario as follows: Case Scenario 2: Superannuation – FOS case number 15552 Case Scenario 3: Margin Lending – FOS case number 13647 Case Scenario 4: Westpoint – FOS case number 16662.
Step 3	These three scenarios and the Deakin University scenario were distributed to a panel of four financial planning experts. The Panel was convened to provide feedback on the accuracy and authenticity of the scenarios and to provide a list of the 12 issues they believed were likely to be considered by financial advisers in resolving the dilemma. A list of these experts and their qualifications is annexed to this thesis at Appendix C.10.
Step 4	Using a Delphi group methodology (Nehiley 2001) panel members were asked to individually consider the draft scenarios and then provide their feedback to the panel by email. The individual feedback was considered by the group, which then consulted over a three week period until consensus was achieved concerning the wording of the dilemmas and the 12 issues arising for the decision-maker. Changes were ultimately made to case scenarios three and four in particular to clarify meaning and to ensure they accorded to the daily practice of the majority of financial planners.
Step 5	The case scenarios were then tested on 24 students from the Masters of Business Degree at Victoria University. No student indicated they had particular expertise in financial planning advice. The students gave feedback that the case scenarios were clear in meaning, despite the fact that some specific industry terminology had been used and that the instructions for each scenario were effectively communicated.
Step 6	Additional issues that the students believed the decision- maker in each scenario should take into account were collated and compared to the issues identified by the expert panel. This process was undertaken to ensure that the twelve issues used in the FAIT instrument corresponded to a wide spectrum of ethical reasoning.
Step 7	The 12 finalised issues for each scenario were reviewed against the original DIT scenarios (Rest et al. 1999c) to ensure they corresponded to the six moral development stages. This method is outlined in more detail in table 5.8 below.
Step 8	Using this technique, four issues in each scenario were then categorised as representing each of the three developmental schemas, namely pre-conventional reasoning; conventional reasoning and post-conventional reasoning. This is described in more detail in Appendix C.12.

***Source*: developed by the researcher**

Table 5.8 below outlines the definition used to describe each of Kohlberg's (1984) six stages of moral development against which the 12 issues for each of the four scenarios were assessed. These categorisations were derived from the Literature review (Kohlberg 1984; Rest *et al.* 1999b) and from the analysis in table 2.3 in Chapter 2.

This is further expanded in Appendix C.12 which outlines the 12 issues used for each case scenario and the ethical reasoning ranking given to each one against the pre-conventional, conventional and post conventional standard.

Table 5.8: The definitions of pre-conventional, conventional and post conventional reasoning used in case scenario assessment

Stage of development	Definition used to assess the 12 issues against ethical reasoning stage
Level One – Pre-conventional Stage One – Obedience and punishment orientation	Sticking to rules to avoid physical punishment. Obedience for its own sake.
Stage Two – Instrumental purpose and exchange	Following the rules only when it is in the individual's immediate interests. Right is an equal exchange, a fair deal.
Level Two – Conventional Stage Three – Interpersonal accord, conformity, mutual expectations	Stereotypical "good" behaviour. Living up to what is expected by people close to you.
Stage Four – Social accord and system maintenance	Fulfilling duties and obligations to which the individual have agreed. Upholding laws except in extreme cases where they conflict with fixed social duties. Contributing to the society, group.
Level Three – Post Conventional Stage Five – Social contract and individual rights	Being aware that people hold a variety of values and that rules are relative to the group. Upholding rules because they are part of a social contract. Upholding non relative values and rights regardless of majority opinion.
Stage Six – Universal ethical principles	Following self-chosen ethical principles. When laws violate these principles, to act in accord with the principles.

***Source*: developed by the researcher**

Consideration was given to developing some nonsense issues for each scenario so as to identify data from respondents who were not taking the test seriously. However, ultimately one of the pre-conventional issues in each scenario was used for this purpose.

A summary of the four case scenarios ultimately used in the FAIT instrument is outlined in the Table 5.9 below. The full text for each case scenario is attached to this thesis as part of the pilot survey and main research instruments at Appendix C.11.

Table 5.9: Case scenarios developed for the FAIT instrument

No.	Name of Scenario	Synopsis
1	Business Relationships	Ros must decide whether to refer her client to a solicitor with whom her firm has a referral arrangement but where higher legal fees are likely to be paid by the client.
2	Superannuation	Andrew must decide whether to switch his new client's investments to in house financial products to satisfy bonus and corporate objectives.
3	Margin Lending/Share Portfolio	Jessica must decide whether she is entitled to a number of different fees payable to her for advice on one strategy, in circumstances where the fees may overlap for the work performed, leading to a double up in payment by the client.
4	Westpoint	Nicholas must decide whether and in what circumstance he should report a colleague to his Licensee for inappropriate advice. In relation to property investments.

***Source*: developed by the researcher**

Guidelines used by Borenstein *et al.* (2006) were adopted to exclude those respondents from the FAIT analysis who did not complete scenarios or some of the questions associated with the scenarios, as follows:

1. Respondents who failed to complete the ranking and ratings data for all four scenarios;

2. Respondents who failed to complete the ranking and ratings data for three scenarios;
3. Respondents who answered three scenarios was adjusted on a pro-rated basis and converted to a percentage by the number of scenarios completed.

Each of the four case scenarios required respondents to undertake three tasks. Part A asked the respondent to decide which course of action the adviser in the scenario should take.

Part B asked the respondent to rate the 12 issues provided with the scenario (the questions that someone deliberating on the dilemma might consider), in terms of how important they thought the issue was to the adviser's decision. Respondents were asked to use a Likert scale (1=great importance, 2=much importance, 3=some importance, 4=little importance, 5=no importance) for this purpose which also made it easier to record responses online. A drop down selection menu of the five numbers was also used for the convenience of the respondent.

Part C asked the respondent to select the top four issues they believed the adviser should take into account when making his/her decision, in order of importance, with the number 1 as the most important, number 2 as the next most important, number 3 as the third most important and number 4 as the fourth most important issue. Respondents were informed to only rank four issues for this part and that the numbers 1, 2, 3 and 4 were only be used once for this purpose.

The methods for data analysis conducted from the FAIT instrument responses are described in detail in section 5.9 of this Chapter.

Having developed the different sections of the research questionnaire, the next step in stage four of the research was to conduct pre-testing of the questionnaire.

5.7 Stage 4: Pre-testing the Research Questionnaire

5.7.1 The pre-test

Pre-testing of the main research questionnaire had a number of purposes (Zikmund 2003), including to:

1. detect problems associated with the questionnaire instructions or design and the technical aspects of the online questionnaire;
2. pinpoint ambiguous questions that may lead to a misunderstanding or convey a different meaning to some respondents;
3. test the structure of the questions;
4. identify the confusing use of terminology; and
5. test the reliability and validity of the scales.

A purposive sample of 54 was identified to participate in the pre-test, represented by the members of the financial services forum used for the focus group session. The pre-test was conducted using a pilot survey instrument titled “Ethical Decision Making in Financial Planning in Australia”. This was distributed to the 54 respondents on 15 May 2008 by an email link access pathway to the online survey site. Respondents were given information about the pilot survey in the email and in the Preamble / Introduction to the pilot survey instrument itself.

Rules were devised in relation to the duration of, and access to, the pilot survey. Respondents were advised in the Preamble/Introduction that:

- their participation was voluntary;
- it would take approximately 40 to 45 minutes to complete the survey;
- no sensitive information was being sought;
- they may choose not to answer any question or withdraw from the pilot survey at any time;
- their answers would be kept confidential;

- they would not be paid for their participation in the pilot survey, but they could obtain a summary of the study's key findings upon request, once the study was completed; and
- any queries about their participation in the project should be directed to Professor Anona Armstrong.

Twenty respondents commenced the pilot survey online, with 15 respondents completing all questions. In addition, three surveys were handwritten, converted to pdf format and sent to the researcher via email.

As indicated in Table 5.6 above and in Appendix C.9, Trevino, Butterfield & McCabe's (1998) original Ethical Climate and Culture survey was modified for the purposes of this study. For example, Trevino, Butterfield and McCabe (1998) had previously identified that the Personal Ethics and Rules and Procedures scales did not meet conventional reliability standards. For the purposes of the pilot survey therefore, some of the items within these scales were modified in an effort to increase reliability. In addition, as presented in Appendix C.9, some questions were deleted from other scales due to the length of the survey instrument over all and time pressures on respondents.

Amendments were made to the main research instrument based on the results of the pilot survey. These amendments are attached to this thesis in Appendix C.13. The first column of the Appendix outlines the section of the questionnaire which was subject to amendment. The second column contains the section's title and the third column describes the changes made. Appendix C.14 contains a specific table of amendments made to the items in the Ethical Climate and Culture Survey within section 3 of the questionnaire. These included minor changes to the wording of questions 2, 9, 12, 13, 21 and 25 to clarify meaning or to revert to the original wording in the Trevino, Butterfield and McCabe (1998) scale. Question 32 was also inserted from the orgininal Trevino, Butterfield and McCabe (1998) scale.

Other changes made to the questionnaire as a result of the pre-test phase included the insertion of small courtesy statements at the end of each section of the questionnaire congratulating the respondent on having completed that section and advising of the expected time duration for completion of the next section. A web based rule was also inserted so that respondents could save a partially completed questionnaire and return to complete the survey at a later time, without losing responses to sections already completed.

Changes were also made to the instructions attached to the FAIT instrument in Section 4 of the questionnaire to clarify the ranking task in Part C of each scenario and request that respondents re-confirm their ranking of the top four issues.

5.7.2 The reliability and validity of the scales

One of the purposes of conducting the pre-test was to measure the reliability and validity of the numerous scales within the research questionnaire. According to Hair *et al.* (2006), the reliability of a scale concerns the extent to which the scale produces consistent results if repeated measurements are made. The validity of a scale on the other hand, deals with the accuracy with which a measurement represents the concept under study.

This study measured the construct reliability, content validity and construct validity of the different scales within the main research instrument.

Two dimensions underline the concept of reliability, namely repeatability and internal consistency (Zikmund 2003). Co-efficient alpha or Cronbach's alpha is the most common method accepted by researchers in assessing the reliability of a measurement scale (Cronbach 1951). It has been described as a measure of internal consistency of a set of items (Hair *et al.* 2006) and was adopted for the purposes of this study as an indication of instrument reliability of the different scales used in the main research questionnaire.

A low co-efficient alpha indicates that the sample of items does not capture the construct and is not shared in the common core of the construct. Nunnally (1978) has suggested that such items should be removed in order to increase the alpha and that an acceptable alpha range is .50 to .60. Hair, et al. (2006) have suggested the range is .60 to .70.

For this study, Cronbach's alpha was calculated for the major constructs of ethical culture (section 2 scale), ethical climate (section 3 scales) and the FAIT instrument (section 4). Cronbach's alpha on the nine item scale in section 2 was reliable at .785.

In relation to the ten scales in section 3, Cronbach's alpha ranged from .69 for the Ethical Environment scale, to .91 for the Locus of Control scale. All Cronbach alpha scores for the ten scales are provided in table 6.15 in Chapter 6.

Cronbach's alpha for the Locus of Control scale was originally .86. Reliability for the scale increased to .91 with the removal of the variable in question 24 ("I am not free to do my job in the way I see fit"). A decision was made to delete the question given it was not an item in the original Trevino, Butterfield and McCabe (1998) scale and did not appear to add anything to the original scale. Accordingly the data set was standardized down to three items with a Cronbach's alpha of .91.

The original Cronbach's alpha for the Code Implementation scale was .42. Reliability for the scale increased to .78 with the removal of the variable in question 25 ("The Licensee relies on Codes of Ethics from professional associations, rather than having its own Code."). A decision was made to delete this question given it was not a question from the original scale used by Trevino, Butterfield and McCabe (1998) scale. Accordingly, the data set was standardized down to three items with a Cronbach's alpha of .78.

The original Cronbach's alpha for the Personal Ethics scale was .690. The analysis suggested it would increase to .796 with the removal of the variable in question 38 ("It is important to always act in an ethical manner"). However, it was decided to keep the question in the scale, even though it was not a question from the original scale used by Trevino, Butterfield & McCabe (1998).

It was important to ensure that the 12 items within each of the four FAIT instrument case scenarios and their groupings as pre-conventional, conventional and post conventional scales were reliable. All co-efficient alphas were at acceptable levels for the FAIT instrument (r. >.7). The Cronbach's alpha for the pre-conventional scale, based on standardized items, was .76. For the post conventional scale, the Cronbach's alpha based on standardized items was .76.

Accordingly, over the four case scenarios, the pre-conventional and post conventional scales had significant alphas of r. > .7. Therefore, the pre-conventional scores and the post conventional scores of respondents were demonstrated as two independent scales. The conventional scores did not hold as a scale in their own right.

It was concluded therefore that the FAIT instrument was reliable at the level of four scenarios overall, even though the test did not have the traditional six scenarios. It is suggested however that the reliability may have been stronger if more case scenarios had been used.

These reliability scores also suggested that respondents who ranked post conventional issues highly on one scenario, were more likely to rank post conventional issues highly on any of the other three scenarios. It was inferred that the ethical reasoning of respondents was therefore not changing across the four scenarios and their different topics.

There are various forms of validity, of which two types were important to this study, content validity and construct validity.

Content validity is a precursor to construct validity. It is a subjective, yet systematic assessment of the content by which a scale measures a construct (Hair *et al.* 2006). The identification and adaptation of existing scales from the literature for use in the main research instrument, such as Bigel's (1998) demographic survey; Trevino, Butterfield and McCabe's (1998) ethical climate and culture scale and the DIT 2 instrument (Rest, *et al.* 1999), assisted in establishing scale purification and content validity for the purposes of this study. The results of pre-testing of the instrument, as previously mentioned, assisted further in this task.

The objective of performing construct validity is to reveal the validity of the main constructs within the research model (Malhotra 2004). It can be classified into nomological, convergent and discriminant validity with the former being considered important to establish in this study. Hair *et al.* (2006, p.138) has advised that nomological validity determines whether the scale demonstrates the relationships shown to exist in previous research. Nomological validity was established in this study through the confirmed factor analysis which demonstrated support for the hypotheses proposed in the research model.

5.8 Stage 5: Questionnaire Data Collection

The methodology associated with stage five of the research, incorporating the data collection from the main research questionnaire and the analysis of responses, is outlined in this section of the Chapter.

The sampling technologies discussed in section 5.2.2 of this chapter resulted in a sample of 770 financial planners and compliance officers. This group, once identified, was notified by email of the survey and asked whether they wished to participate in the main research questionnaire or if they were concerned about their inclusion in the survey sample. Sheehan and Hoy (1999) and Sax, Gilmartin & Bryant (2003) have counselled that conducting surveys by email link can be problematic if it is viewed by the respondents as unsolicited e-mail. No negative response was received from the potential respondents to this effect.

It is acknowledged that the problems associated with obtaining the sample group for the main survey instrument may have led to bias in responses and that element of the study may have been compromised as a result. Firstly, the respondents were not a random sample derived from the membership database of a professional association for financial planning, as originally hoped. Secondly, the sample group had links to the client and marketing databases of a law firm of which the researcher is a Principal. Thirdly, the researcher is also a member of the FPA Professional Conduct Committee, thus having relationships with the 12 committee members used to refer potential respondents to the study. Accordingly, it is possible that some respondents to the main research questionnaire were aware of the researcher, her reputation and work or the law firm's reputation.

However, numerous methods were adopted to ensure objectivity was obtained. Firstly, responses to the main research questionnaire were provided anonymously in an online environment, which identified respondents by a number allocated to them by the online service provider. No direct contact was made between the researcher and the respondent. Secondly, responses were analysed and aggregated using these numbers. Thirdly, no written content or responses that could identify any participant were required and no sensitive information was sought. Fourthly, participation was voluntary and respondents were advised they could choose not to answer any question or withdraw from the study at any time. In addition, respondents were advised that their responses would be kept confidential and that any queries about their participation in the project should be directed to Professor Anona Armstrong at Victoria University.

Further, the survey results indicated that the respondents to the survey represented all of the demographic categories used and included a broad range of respondents within the industry and from across professional membership groups. For example, 52.3% of those who completed the main survey identified themselves as FPA members. However, 16.1% were CPA members; 17.4% were ICAA members and 27.5% were not members of any professional association at all.

The main research instrument was distributed by email link through an online server to sample group on 6 June 2008. An anticipated response rate of approximately 19% or 150 respondents was expected.

The rules established for the pilot survey were repeated for the main research instrument. Additional rules were also established for the online environment to facilitate responses to the questionnaire as follows:

- respondents could save any uncompleted survey responses and return to complete the survey at a later time, so as to allow flexibility with other work and life commitments;
- respondents received a tool when logging out of the survey so they could identify what percentage of the survey they had completed at any point in time and what percentage of the survey they had yet to complete;

- all references to the word “unethical” in section 3 were placed in italics to overcome any issues with respondents reading the term “ethical” in its place; and
- reminder dates and emails were established. The first reminder to respondents to complete the survey was sent on Friday 20 June 2008. A second reminder was sent to respondents on Friday 27 June 2008.

Buchanan (2004, p.16) cited evidence that only 4% of studies encouraged the respondent to sign, print or save consent forms to participate in online surveys. Accordingly, for the purposes of this study, it was assumed that online survey respondents consented to participate in the study by definition of their response. Accordingly, a consent form was not used for the main research instrument, nor was it required for the purposes of Ethics Committee approval.

All respondents were advised of the purpose of the study and the rights, obligations and responsibilities of the researcher and the respondents in the written preamble to the questionnaire to ensure that the consent of respondents to participate in the study was informed (Buchanan 2004).

No respondent was paid to take part in the main research questionnaire. In keeping with ethical guidelines for internet researchers listed by Michalek and Szabo (1998), a summary copy of the overall survey results once completed was also offered to respondents in return for their participation.

5.9 Methods of Data Analysis

The following methods of data analysis were applied in this study to assist in answering research questions three, four, five and six and to achieve the study’s objectives. These methods included descriptive statistics, Pearson’s product-moment correlation co-efficient, Spearman’s correlation co-efficient, ordinary least squares (OLS) regressions and hierarchical regressions.

Correlation and regression analysis were chosen as the primary methods of data analysis for the purposes of this study because they are based on linear method, depend on normality assumptions and do not test for causality (Hansen & Morrow 2003).

To commence the analysis, a demographic profile of the sample was required. To present this profile, descriptive statistics of demographic variables were conducted. Response frequencies of survey items by respondents were also performed to provide insights into the data and further analyses. Frequency and analysis with SPSS 14.0 software for Windows (2007) (Coakes & Steed 2007) was utilised for the description of sample population parameters. The description included the calculation of means, frequency distributions and percentage distributions to summarise data.

The main survey sample was also stratified by education level, remuneration source, age, gender, experience, professional designation, size of organisation and between financial planners and compliance officers for the purposes of hypotheses measurement.

To test the validity of the model it was necessary that the individual relationships between variables were statistically significant, in the predicted direction and of a magnitude warranting further investigation. Accordingly, in terms of the nine hypotheses tested, the following specific methodology was adopted.

The first five hypotheses tested in the model required the measurement of the dependent variable cognitive ethical reasoning, data for which was collected by the FAIT instrument testing.

To analyse this data the responses to Parts A, B and C for each of the four scenarios were first entered into SSPS 14.0 and collated into data sets (yes/no/maybe response for Part A, ratings responses for Part B and ranking responses for Part C). For Part A responses, the means and standard deviations for each scenario were not assessed due to the nature of the responses. For Part B responses, frequencies for all twelve issues for each scenario were measured. For Part C responses, only the basic frequencies were measured. The means and standard deviations for this part were not obtained due to the nature of the data captured.

The FAIT instrument measured the two traditional DIT 2 scores (Rest *et al.* 1997):

1. the P score - the degree to which post conventional thinking is prevalent (measured using the Part C responses); and
2. the N2 score - the degree to which post conventional thinking is present and pre-conventional thinking is absent (measured by the Part B and Part C scores).

The P score was calculated from the ranking that each respondent assigned to the post conventional items in resolving the four ethical case scenarios (Thorne 2000). For each post conventional item ranked in first place as the most important issue, the respondent received 4 points. If a post conventional item was ranked second they received 3 points, if ranked third, 2 points and if ranked fourth, 1 point. If a respondent did not rank a post conventional item first, second, third or fourth for a particular case scenario, then a zero was inserted for their score. The highest score therefore a respondent could achieve for each dilemma was 40 points. The lowest score was zero.

The P score was the total number of points scored across the four scenarios for each respondent, converted as a percentage out of 40 (being 10 points possible for each scenario, multiplied by the four case scenarios) (Rest et al 1997c). The string expression adopted therefore was (PModThorn/40) /100. Using this formula, the highest P score achieved by a respondent in this study was 70%.

It was assumed that a person who scored highly in post conventional reasoning in one scenario would also have a similarly high score for the other three scenarios. This assertion was supported by the data as all four scores by respondents across each scenario correlated highly. This is discussed in more detail in Chapter 6 of the thesis.

The N2 score accounted for the presence of post conventional thinking and the absence of pre-conventional thinking in the responses to Parts B and C of the four case scenarios (Rest *et al.* 1997). This score was calculated by the following equation:

N2 score = P score – 3 (average rating on pre conventional issues – average rating on post conventional issues)/standard deviation of pre and post –conventional issues.

The analysis indicated that the P scores for respondents to this study correlated negatively with the N2 scores; correlated positively to the post conventional scores and negatively, but not significantly so, to the pre-conventional scores. The N2 scores correlated negatively to the pre-conventional scores and positively to the post conventional scores.

So as to use as much of the pre-conventional and post conventional data obtained from Parts B and C of the FAIT case scenarios as possible, a score unique to the FAIT instrument was devised. This unique score was calculated by subtracting the mean of the pre-conventional score of a respondent from the mean of the post-conventional score, across all four case scenarios. The equation for this score was:

FAIT score = mean of Post conventional scores – mean Pre-conventional scores.

The FAIT score was very similar in calculation therefore to the N2 Score, but only took the inner sets of data and correlates for respondents. The FAIT score had a number of advantages relevant to this study. First, it tended to be more parsimonious, easier to calculate and to use. Secondly, the FAIT score seemed to be more sensitive and revealed information about the data that due to the small sample size for this study, both the P score and the N2 score seemed to struggle with.

The new score was also a valid predictor of the N2 score and to a lesser extent, the P score. The FAIT score was very strongly correlated with the N Score at .898. Against the P score, the FAIT score was significantly correlated at .391, although not as strongly as the correlation with the N2 score.

Accordingly, for the purposes of this study the following hierarchy of scores of cognitive ethical reasoning was adopted and used at different stages of analysis for the purposes of the thesis:

1. Pre-conventional scores and mean;
2. Post Conventional scores and mean;
3. P score;
4. FAIT score; and

5. N2 score.

The mean scores and the percentage combination of important and very important scores for the responses to Part B of Scenarios 1, 2, 3 and 4 were also calculated for use in the analysis and to determine the issues that the majority of respondents considered were the most influential in resolving the dilemma.

The following methods of analysis were applied to each hypothesis posed by the model. To measure hypothesis 1, the gender of each respondent was treated as a dichotomous variable, with the 46 'Female" respondents being coded as 1 and 115 "Male" respondents as 0. Being a dichotomous variable it was treated as an interval variable. The three ethical reasoning scores, the FAIT score, the N2 score and the P score ("the three ethical reasoning scores") were also treated as interval variables. Accordingly, a Pearson's r correlation was used as the appropriate test of association between gender and the three ethical reasoning scores. A Pearson's correlation co-efficient is also referred to as a simple correlation co-efficient, which is a statistical measure of the co-variation or association between two variables (Zikmund 2003).

To test hypothesis two, the variables of age (Age) and years of experience (Experience Years) were treated as ordinal variables with older age, and longer work experience being ranked higher. Spearman's rank correlation was the appropriate test of association between Female, Age and Experience Years since the first variable was interval and the latter two were ordinal (Cavana, Delahaye and Sekaran 2001). Spearman's rank correlation or Spearman's rho is a non-parametric test used to examine relationships between variables not measured on an interval or ratio scale (Cavana, Delahaye and Sekaran 2001).

The age categories used for the study were 20-29 years, 30-39 years, 40-49 years, 50 - 59 years and 60+ years. The variable of age was therefore treated as an ordinal variable. It was at times made into a dichotomous variable with the ages of 20 – 29 years as one variable called young age (YAge) and coded as l and the remaining ages coded as 0. This was done for the purpose of conducting partial correlation analysis to further investigate relationships at the zero correlation level.

The education level categories included in the study were profession specific and included the Diploma of Financial Planning, the Advanced Diploma of Financial Planning, Undergraduate Degree, Post Graduate Degree and Other. This ordinal variable was called Education Attainment and was also the subject of correlation testing with all three ethical reasoning scores.

To measure experience, a number of demographic categories were used including number of years of experience and professional designation held by the individual participant. The years of experience categories were 0 -5 years, 6 – 10 years, 11 – 15 years, 16 – 20 years and over 20 years. Years of experience in this sense was treated as an ordinal variable. To undertake partial correlation analysis for the purposes of some hypotheses, it was made into a dichotomous variable with less than 40 years being coded as 1 and the remaining years being coded as 0. This new variable was called low years of experience (LExperience).

The categories for the professional designations corresponded to the primary designations for the FPA, CPA Australia and the ICAA, being the main professional associations in the financial planning sector. The designations were confined to CFP®, CPA, and CA. Professional designation was made into a dichotomous variable for the purpose of some hypothesis testing, with CFP® membership being coded as 1 and other/no membership coded 0.

To determine which of the variables (YAge, LExperience or CFP® professional designation) was the most important in explaining variation in both the FAIT and P scores, OLS regression was conducted with YAge, LExperience and the CFP® professional designation as independent variables and the FAIT, N2 and P scores as the dependent variable in turn. The Multiple *R* correlation coefficients and standard regression coefficients were also calculated in this analysis to reflect the degree of association between the individual variables (Multiple *R*) and the change in the dependent measure for each unit change in the independent variable (standard regression coefficients) (Hair et al. 2006).

Hypothesis 3 was tested using correlation analysis between the variable Organisational Size and the three ethical reasoning scores. For the purposes of this hypothesis, Organisational Size was measured as a dichotomous variable, with large AFS Licensees (more than 50 financial advisers) being coded as 1 and medium (10 – 50 financial advisers) and small AFS Licensees (1 - 9 financial advisers) coded as 0.

Small organisations were categorized as having between 1 - 9 advisers, medium organisations between 10 – 50 advisers and large organisations over 50 advisers. These categories were consistent with those used by Money Management Magazine (2007) for its annual surveys of the top 100 dealer groups in Australia.

For the purposes of hypothesis 4, the respondents were again divided into two groups. Those who nominated their role as a financial planner only were categorised in the financial planner group and all other respondents were categorised as non financial planners. Only those categorised as financial planners were used in the testing of hypothesis 4.

To test remuneration source and due to low response rates for the main research instrument, a dichotomous variable was created, with financial planning respondents who were primarily remunerated by commission or a combination of commission and fee being coded 1 and those respondents that received salary and/or fee only, being coded 0.

As the three cognitive ethical reasoning scores were treated as interval variables, a Pearson's r correlation was considered the appropriate test of association between commission payments and these three variables.

To test Hypothesis 5, the sample was divided into two groups to create a dichotomous variable with Compliance Officers (Compliance Role) being coded 1 and Financial Advisers being coded 0. Correlations were then conducted between the Compliance Role and the three cognitive ethical reasoning scores.

The contextual dimension data was derived from the respondent's answers to sections 2 and 3 of the research instrument. The data was also represented against the compliance officer or financial planner category of respondents.

The methods of data analysis applied to the section 2 scale on the presence of systems and procedures related to ethical culture, included response frequencies and percentage response rates for each scale item. The mean, median and standard deviation for the Section 2 data was not calculated, given responses to each of the nine questions required a “yes”, “no” and “don’t know” response only.

For the purposes of hypothesis 6, the ethical culture items from sections 2 and 3 of the main research instrument were correlated with the three ethical reasoning scales. The two ethical culture items were the Australian Standards Compliance Index (ASCI) and the section 3A Ethical Environment scale from the ethical climate and culture survey within section 3 of the main research instrument.

A bivariate partial correlation between the ASCI and the three ethical reasoning scores were also conducted for the purposes of hypothesis 6. To exclude a possible interaction effect, the ASCI was also tested against the mean scores of the ethical climate scales, in an attempt to explain any variation in cognitive ethical reasoning scores.

To measure the data from the Ethical Climate and Culture Survey in section 3 of the questionnaire, individual frequencies, response rates and reliability testing, using Cronbach’s alpha, were conducted for all 10 scales. A partial correlation analysis was conducted to test for significant statistical differences between the two cohorts of compliance officer and financial adviser in their perceptions of the ethical climate dimensions, as required by hypothesis 7.

To test hypothesis 8, high ethical leadership in an organisation was measured by developing an ethical leadership scale. This scale used questions drawn from the section 3A Ethical Environment scale. The Cronbach alpha for the scale was .725. As it was hypothesised that perceptions of ethical leadership in an AFS Licensee would be associated with higher levels of Community, Employee Commitment and Obedience to the Law, this scale was then correlated with the means of the Employee Focus; the Community and the Law and Professional Code climate scales.

The ninth hypothesis to be tested related to the possible links between the self interest or Situational Context ethical climate scale, Organisational Commitment and the ethical reasoning scores of the respondents. Correlations were conducted between Self Interest, (using the mean of the situational context climate scale as a measure of this scale), and the three ethical reasoning scores. This test was then replicated for the Employee Focus scale (used to measure Organisational Commitment) and the three ethical reasoning scores.

The FAIT score was the only ethical reasoning score that had a significant zero-order correlation with either Self Interest or Organisational Commitment. Accordingly, a hierarchal regression was conducted for this ethical reasoning score as a dependent variable to measure any variance in the FAIT scores that could be attributed to Organisational Commitment. A hierarchical regression is a stepwise clustering procedure involving a combination of objects into a cluster, resulting in the construction of a hierarchy, depicting the formation of clusters (Hair et al. 2006).

The interaction variable, Self Interest by Organisational Commitment was introduced as a second step (model 2) of the hierarchical regression to show any significant unique contribution made to the variance of FAIT scores, after the Self Interest and Organisational Commitment were controlled for. The interaction variable Self Interest by Organisational Commitment was then entered into the hierarchical regression to measure any unique variation in the FAIT score, N2 and P scores. The Multiple *R* and the square of Multiple *R* were calculated. The latter calculation was conducted to determine the amount of variance explained in the dependent variable by the two predictors.

5.10 Ethics Approval and Confidentiality of Participant Information

This section of the Chapter discusses ethics committee approval for the research and how the confidential information and data of individual respondents was handled.

Approval to conduct the human research elements of the study was gained from the Human Research Ethics Committee, Faculty of Business and Law, Victoria University on 20 October 2005. Copies of emails related to Ethics Committee approval are appended to this thesis at Appendix C.15.

Deontological principles dominated the ethical standards adopted to undertake the research, such as treating subjects with respect and dignity; allowing autonomy in their decision concerning whether or not to participate; having concern for their well being and avoiding harm (Lefkowitz 2003).

As all respondents to the study were over 18 years of age and professional persons, it was assumed that they were literate in English and that no translations of information were required.

It was considered that any respondent who completed either the pilot or main survey online was in effect consenting to participation. The focus therefore was on ensuring respondents had sufficient information about the study so that they could make an informed decision about whether to participate and what rights they had to confidentiality.

In terms of confidentiality, the physical documents relating to the respondents were kept in locked filing cabinets in a locked room in the Principal Supervisor's office. Where data was transcribed in a digital form it was protected by passwords on computer, although it was understood that data stored on servers connected to the internet posed more risks to the confidentiality of respondents than data stored in locked filing cabinets (Nosek, Banaji & Greenwald 2002).

5.11 Summary

Chapter 5 has discussed the methodology adopted to test the conceptual framework adopted for this research.

The methodology utilised both quantitative and qualitative research methods so as to achieve the thesis' objectives, generate preliminary baseline data on the ethical decision making of financial planning respondents and explore the research questions and hypotheses posed by the study.

The research was conducted in five stages to ensure it was undertaken in a sequential manner. In particular, stages two and three of the research were considered to be an integral part of the research design for the reasons outlined in this Chapter.

In summary, quantitative research methods were used in stage 2 of the research to review relevant decisions made by the three external decision makers, namely the Australian courts, ASIC and the FOS in the years 2006 and 2007, to provide insight into the primary forms of unethical conduct by financial planning respondents in the provision of financial advice. This stage included the collation and analysis of data related to the study's case study on financial advice given to consumers to invest in Westpoint.

In addition, qualitative research methods were utilised to convene a focus group in stage three of the research. The purpose of the focus group was to present a richer and more complex description of the perceptions and attitudes of the study's participant groups to the current ethical issues facing them in their respective roles as financial planners and compliance officers and the factors that the respondents believed may be influencing ethical decision-making in their organisations.

Stage four of the research comprised the development and pre-testing of the main research questionnaire. The purpose of the questionnaire was to collect quantitative data against which to measure the nine hypotheses posed by the thesis. The four sections of the questionnaire included a demographic survey, based on Bigel's (1998) study in section one, a survey of the systems and procedures AFS Licensees may have in place to embed ethical culture in section two of the questionnaire, an ethical climate and culture survey based on the research of Trevino, Butterfield & McCabe (1998) in section three and the FAIT instrument in section 4.

The fifth stage of the study involved the collection and analysis of the data from the responses to the main research questionnaire. In testing the nine hypotheses and to achieve the study's objectives, a number different methods of data analysis were applied, including descriptive statistics, Pearson's product-moment correlation co-efficient, Spearman's correlation co-efficient, OLS regressions, Multiple R and hierarchical regressions.

Correlation and regression analysis were chosen as the primary methods of data analysis for the purposes of this study because they are based on linear method, depend on normality assumptions and do not test for causality (Hansen & Morrow 2003).

Chapter 6 of the thesis will now discuss the results of the testing conducted using the methodology outlined in this Chapter.

CHAPTER 6: RESULTS

Ethical business conduct or the lack of it is a key function in the long term viability and success of all our enterprises (Doug Jules, National Chair KPMG in Australia in KPMG 2005, p.2).

6.1 Introduction

Chapter 5 discussed the methodology that was adopted for the purpose of this thesis to measure the research questions and hypotheses posed in the conceptual framework.

Chapter 6 has nine different sections. It reports on the results of the research and presents the findings associated with the primary research question posed by the thesis, namely to determine the current individual, situational and contextual factors that may be influencing the ethical decision making of the two respondent groups, financial planners and compliance officers, in the provision of financial advice to consumers in Australia.

The chapter commences in section 6.2 with a presentation of the results for research question one and the primary types of unethical conduct by financial planners and AFS Licensees in the provision of financial advice, that were identified from the analysis undertaken. That section presents the quantitative data associated with an analysis of consumer and regulator action against financial advisers and AFS Licensees, decided in the period 2006 – 2007 by Australian Courts, the FOS and ASIC.

Section 6.3 of Chapter 6 addresses the findings associated with research question 2 and the perceptions of the focus group participants to the current ethical issues facing financial planners and compliance officers in their respective roles.

Prior to a discussion of the results of the hypotheses testing conducted for this study, the descriptive statistics of the main research questionnaire sample and the frequency scales for the FAIT instrument are presented in sections 6.4 and 6.5 respectively.

Section 6.6 of Chapter 6 presents the results associated with research question three and hypotheses one and two, which explored whether there were statistically significant differences in the cognitive ethical reasoning levels of the two respondent groups, related to individual attributes such as gender, age, education level, professional designation, or experience. This section includes the correlation tables of ethical reasoning scores against the individual and situational dimensions studied.

This is followed in section 6.7 of the chapter by a report on the results of research question four and whether, as posed by hypothesis three, there was a statistically significant relationship found between the size of the organisation and the cognitive ethical reasoning of respondents.

The findings associated with the contextual factors measured in this study and their influence on the ethical decision making of financial planners and compliance officers, are examined in section 6.8 of the Chapter. This section includes the correlation tables and frequencies scales for the contextual dimensions studied.

Further, this section presents the results associated with research questions 5, 6 and 7 and hypotheses 4 to 9. It first considers the relationships between cognitive ethical reasoning and the contextual factors of remuneration source and role. This is followed by the results related to the ethical culture survey and the ethical climate and culture survey from the main research questionnaire. These results include the study's findings concerning the respondents' perceptions of ethical climate and ethical culture within their financial services organisation and the interaction of the ethical climate and ethical culture dimensions with other constructs, such as cognitive ethical reasoning, self interest and ethical leadership.

6.2 Research Question One: Primary Types of Unethical Conduct in the Provision of Financial Advice.

6.2.1 The primary advisory services at risk of unethical conduct

As outlined in chapter 5 of the thesis, stage two of the research concerned the quantitative analysis of decisions made by external bodies against financial advisers and AFS Licensees arising from consumer complaints. The purpose of the analysis was three fold. First, to determine the primary areas of financial advice which are associated with a higher risk of unethical conduct. Secondly, to determine the primary types of unethical conduct currently associated with the provision of financial advice and thirdly, to collect data from which to ensure the case scenarios used in the FAIT instrument matched common ethical dilemmas found in financial planning practice. No hypothesis was required to respond to this research question as no relationships were tested in this analysis.

Three sources of material in the public domain were used to respond to research question one. The first source was decisions made by Australian courts between 2006 to 2007 which arose from civil actions by clients that alleged negligent financial advice against financial advisers and AFS Licensees. The second source was administrative decisions by ASIC in enforcing the law and included a review of banning orders and enforceable undertakings accepted by ASIC during the relevant period. The third source was decisions of the FOS Panel in its Financial Planning category made in 2006 and 2007.

To determine the primary areas of advice most at risk of unethical conduct, decisions made by Australian courts between 2006 and 2007 were identified using a Boolean Logic search of the AustLii Legal Case Database at www.austlii.edu.au. This search was conducted in February 2008. The search terms used and the decisions identified are listed at Appendix D.1 together with the relevant court reference and a summary of the outcome of the decision. A total of 11 decisions in financial planning matters that matched the search criteria were made by Australian courts between 2006 and 2007.

A search of ASIC banning orders against financial advisers made during the relevant period and used in this study's analysis, were identified and collated between 6 January 2008 to 10 January 2008, by searching the banning order and media release archives on the ASIC website at www.asic.gov.au/other registers/ banned and disqualified persons /AFS Banned/Disqualified Persons/ and at www.asic.gov.au/publications/mediacentre /mediareleases and advisories/

Appendix D.3 contains a list of ASIC banning orders made between 2006 and 2007. The associated references for the banning order analysis is contained in the reference list entitled "Reference List of Australian Securities and Investment Commission Banning Orders". It includes information about the name of the person who was the subject of the order; the duration of the banning order; the relevant ASIC media release details; the type of advice involved and a summary of the alleged unethical conduct arising from the action. The search revealed that 56 banning orders were made during the relevant period, (35 banning orders in 2006 and 21 banning orders in 2007).

An analysis of the published enforceable undertaking register located on the ASIC website at http://www.asic.gov.au/otherreigtsers/enforceableundertakingsregister/ was conducted in January 2008. Appendix D.4 outlines a list of these enforceable undertakings between January 2006 and December 2007, the type of advice to which the undertaking relates, the primary allegations made by ASIC prior to the undertaking and a summary of the undertaking given. The search revealed that during the period January 2006 to December 2007, ASIC accepted a total of seven enforceable undertakings from financial services participants.

FOS Panel decisions matching the search criteria were identified and collated from published decisions, located on the FOS Website at http://www.fics.asn.au/determinationsandadjudicationsarchives/.

The search revealed FOS published a total of 172 decisions in its financial planning division between January 2006 and December 2007. Eleven matters were the subject of two decisions. Accordingly, only one decision for these 11 matters was counted. This meant 161 FOS decisions were analysed for the purposes of the research. These decisions comprised 55 Adjudications (decisions made in cases below $30,000) and 106 Determinations (decisions made in cases above $30,000).

Table 6.1 below outlines the most common types of advisory services that were the subject of decisions by external decision makers against financial advisers and AFS Licensees between January 2006 and December 2007, as identified from the data.

The table suggests that of the 235 decisions reviewed, the primary advisory services which were the subject of these determinations were advice in relation to general investment advice (48), superannuation advice (41), financial advice related to

Westpoint promissory notes (40) and equities/shares advice (22). Advice associated with other managed investment schemes (20) and insurance and insurance broking (17), followed.

Table 6.1: Common types of advisory services the subject of decisions by external decision makers against financial advisers or AFS Licensees between 2006 and 2007

Primary type of advice given	**AC***	**BO****	**EU*****	**FOS#**	**Total**
General investment advice	1	7	0	40	48
Superannuation/SMSF	1	7	2	31	41
Westpoint	6	9	0	25	40
Equities/Shares	0	6	2	14	22
Other managed investment schemes	0	7	0	13	20
Insurance/Insurance broking	0	10	2	5	17
Retirement Planning	0	0	0	9	9
Margin loans/Gearing	0	1	0	7	8
Not available	0	7	0	2	9
Investment Seminars	1	0	0	5	6
Warrants Trading	0	0	0	3	3
Contracts for Difference	0	0	0	3	3
Private company shares/Advice in own shares	1	1	0	0	2
Debentures/Derivatives	0	0	0	2	2
Taxation	1	0	0	1	2
Banking	0	1	0	0	1
Reverse mortgage products	0	0	1	0	1
Centrelink	0	0	0	1	1
Total	**11**	**56**	**7**	**161**	**235**

Legend: *AC =Australian Courts, **BO =Banning Order, ***EU = Enforceable Undertaking, #FOS = Financial Ombudsman Service Ltd.
***Source*: developed by the researcher**

The areas of financial advice identified in Table 6.1 as being most at risk of unethical conduct, include Westpoint (40), superannuation and self managed superannuation advice (41), gearing and margin lending practices (8). As identified in Chapter 5, this data also informed the choice of subject for the three FAIT case scenarios developed for the purposes of the main research instrument.

6.2.2 The primary types of unethical conduct by financial advisers during 2006/07.

Some of the decisions identified in section 6.2.1 were then analysed against the ethical principles list outlined in Appendix C.5, so as to determine the primary types of unethical conduct alleged against the financial adviser or AFS Licensee. This data was also required to respond to research question one. The methodology adopted for this purposes was outlined in section 5.4 of Chapter 5 of this thesis.

The relevant decisions reviewed and the analysis associated with that review is presented in a number of different appendices to this thesis. Appendix D.2 for example, provides an analysis of the primary types of unethical conduct identified from the decisions by Australian courts for 2006 and 2007. Ultimately, only three of the 11 cases identified in section 6.2.1 were further analysed, as those three cases were the only ones that had been finally determined by the courts, thus meeting the selection criteria for review.

Appendix D.3 reports on the analysis conducted in relation to the 56 ASIC banning orders identified for 2006 and 2007 and Appendix D.4 provides the analysis related to the seven ASIC enforceable undertakings for the same period.

Persons who are the subject of an adverse administrative or enforcement decision by ASIC, such as a banning order, may seek a judicial review of that decision by the Federal Administrative Appeals Tribunal (the AAT) and then on appeal, to the Federal Court of Australia (the "FCA"). A total of four decisions by the AAT and FCA made in 2006 and 2007 were identified as being relevant to this study, using the criteria outlined in section 5.4 of Chapter 5. Appendix D.5 contains the analysis associated with these four published decisions.

The data associated with the review of relevant FOS decisions is dealt with in the next section of the Chapter.

Appendix D.8 records the most common forms of unethical conduct identified across all relevant decisions made by Australian courts and ASIC in 2006 and 2007. Column 2 of the Appendix outlines a number of themes that represent a step in the financial advisory process. Column 3 summarises the types of unethical conduct identified from the analysis, categorised according to their association with the themes in Column 2. Column 4 articulates the primary ethical principles associated with the unethical conduct identified in Column 3, using the ethical principles schedule recorded in Appendix C.5. Columns 5, 6, and 7 record the number of times that the particular ethics breach was identified in each decision. Column 8 has the total number of breaches recorded for that type of unethical conduct across all decisions reviewed.

The ten most common forms of unethical conduct arising from this amalgamated analysis are summarised below in Table 6.2.

Table 6.2 demonstrates that integrity issues dominate the analysis. This includes conduct such as using client funds for own purposes (29) and misleading and deceptive statements as to the performance and features of the financial product recommended; the security of the investment or the business reputations of those associated with it (35) and the risks associated with the financial product (16). This conduct forms not only a breach of the ethical and professional behaviour expected of financial planners as outlined in section 3.4 of Chapter 3, but is also unlawful pursuant to the provisions of the Act and the ASIC Act as discussed in section 3.3.1 of that Chapter.

This was followed by competency issues, such as providing advice that did not suit the client’s needs or objectives and that had no reasonable basis (28); misleading and deceptive comments about the financial product or risks associated with the recommendations made to clients (16) and a lack of or inadequate understanding of the research undertaken into the financial product recommended by the financial adviser (23). Objectivity issues, such as the failure to reveal conflicts of interest or fees and commissions earned (23) and the failure to disclose information relevant to the client’s decision (22) were also prevalent.

It should be noted that this latter conduct also constitutes a breach of the “fairness” principle (a failure to provide financial planning services in a manner that is fair and reasonable) in that it is considered unfair for the adviser not to provide clients with all relevant information so they may make informed choices as to whether or not to accept the advice given.

Table 6.2: The ten most common forms of unethical conduct identified from decisions made in financial planning matters by Australian Courts and ASIC between 2006 and 2007.

No.	Theme	Summary of Unethical Conduct	Primary Ethical Principles	No. of breaches
1	Integrity Issues	Misleading statements as to performance, product features or security, business reputations	Integrity, Professionalism	**35**
2	Integrity Issues	Using client funds for own purpose	Integrity, Professionalism	**29**
3	Appropriateness of Advice	Advice did not meet client objectives or circumstances and had no reasonable basis	Competence/ Objectivity	**28**
4	Research into product/strategy	Lack of financial product research/ inadequate understanding of financial product recommended	Competence/ Diligence	**23**
5	Disclosure obligations	Failure to disclose remuneration benefits and conflicts of interest	Objectivity/ Integrity/ Fairness	**23**
6	Disclosure obligations	Failure to disclose information relevant to client decision	Objectivity/ Diligence/ Fairness	**22**
7	Recommendations/ Advice	Inadequate written advice or failure to tailor advice to client	Diligence/ Fairness	**21**
8	Appropriateness of Advice	Inadequate explanation and examination of risks associated with investment	Competence/ Diligence/ Fairness	**19**
9	Integrity Issues	Misleading statements as to risks associated with financial product	Integrity, Professionalism	**16**
10	Compliance	Failure to follow internal procedures and policies of the AFS Licensee	Integrity/ Diligence	**13**

***Source*: developed by the researcher**

6.2.3 Analysis of Westpoint complaints data

The recommendations by financial planners to invest in the Westpoint group of companies became a case study for the research undertaken in this thesis. Data in relation to the unethical conduct of financial advisers and AFS Licensees arising from this advice is therefore separately analysed and reported in this section of the chapter.

Of the 161 FOS Panel decisions for 2006 and 2007 identified in section 6.2.1 of the Chapter, a total of 25 decisions (24 determinations and one adjudication) related to advice to invest in a Westpoint promissory note. These 25 decisions represented approximately 16% of the decisions made by FOS Panel for financial planning complaints in the relevant period.

These 25 decisions were analysed for the purposes of this study to determine the primary types of unethical conduct alleged against the financial adviser and/or the AFS License in relation to Westpoint advice. The unethical conduct was again identified using the comparative table of ethical principles outlined in Appendix C.5 of the thesis. The data associated with the analysis is illustrated in Appendix D.8. Table 6.3 below identifies the primary forms of unethical conduct arising from this analysis.

This conduct includes an inadequate explanation of the risks associated with the Westpoint investments (19), a lack of independent research in relation to the Westpoint promissory notes recommended by the adviser (19) and a failure to conduct due diligence on both the Westpoint company offering the promissory note and the Westpoint Company that offered the guarantee of return of capital on the investment (19).

Other common forms of unethical conduct identified from the analysis include having no reasonable basis for the advice to invest in the Westpoint product (17), misrepresenting the investment as a capital guaranteed fixed interest product (15) and a failure to recommend investments that suited the client’s tolerance to risk (15).

Table 6.3: The ten most common forms of unethical conduct identified from the analysis of FOS Determinations (over $30,000) in Westpoint complaints in 2006/07

No.	Unethical Conduct Identified	Primary Ethical Principle Breached	No. of Breaches
1	Inadequate explanation of the risks associated with the investments	Competence/Fairness/ Diligence	19
2	Lack of independent research on financial product/strategy recommended by the adviser	Competence/Diligence	19
3	Failure to conduct due diligence on company behind financial product/scheme/strategy	Competence/Diligence	19
4	No reasonable basis for the advice	Competence/Fairness	17
5	Product misrepresented as capital guaranteed fixed interest product	Integrity/Professionalism	15
6	Failure to recommend investments that suited tolerance to risk	Competence	15
7	Advice did not match client objectives or circumstances	Competence/Objectivity	12
8	Failure to tailor advice/use of template documents	Competence/Fairness/ Diligence	9
9	Lack of portfolio diversification	Competence	9
10	Inappropriate attempts to limit scope of advice to transaction/ dealing	Integrity/ Professionalism	7

***Source*: developed by the researcher**

The data presented in Table 6.4 below represents the combined data associated with Westpoint dealt with by all external decision makers during 2006 and 2007. The raw data is recorded in Appendix D.9. This data includes the data from the 25 FOS decisions, two decisions of Australian courts and eight banning orders by ASIC. There were no ASIC enforceable undertakings on Westpoint related matters during the relevant period.

Table 6.4: The ten most common forms of unethical conduct identified from the analysis of Westpoint complaints determined by all three external decision makers in 2006/07

No.	Theme	Summary of unethical conduct	Primary Ethical Principles	No. Breaches Identified
1	Integrity Issues	Misleading statements as to performance, product features or security, business reputations	Integrity/ Professionalism	47
2	Research	Inappropriate financial product recommended	Competence	33
3	Appropriateness of advice	No reasonable basis for advice	Competence/ Fairness	31
4	Suitability of Advice	Advice did not meet client objectives or circumstances	Competence/ Objectivity	26
5	Research/Due Diligence	Failure to conduct due diligence of Company behind product/scheme/strategy	Diligence	26
6	Appropriateness of advice	Inadequate explanation and examination of risks associated with investment	Competence/ Diligence/ Fairness	25
7	Research into product/strategy	Lack of financial product research/ No independent research conducted	Competence/ Diligence	25
8	Suitability of advice	Inadequate assessment of risk tolerance	Competence	21
9	Recommendations/Advice	Inappropriate reliance by adviser on general advice warnings	Objectivity /Fairness	19
10	Disclosure Obligations	Failure to disclose remuneration/benefits	Objectivity/ Integrity	16
10	Recommendations/Advice	Failure to tailor advice to client/use of template documents	Competence/ Diligence	16

***Source*: developed by the researcher**

The similarities between the forms of unethical conduct described in Tables 6.3 and 6.4 are evident. Once again, the primary form of unethical conduct identified from the Westpoint decisions overall is integrity related, being misleading statements made to clients about the performance, features and security of the promissory notes, the business reputations of the Westpoint group and its longevity (47).

This form of unethical conduct was followed by competency related matters such as recommending an inappropriate financial product (33); having no reasonable basis for the advice given (31) and giving advice that did not meet the client's needs and objectives (26). Diligence breaches then dominate the list including the failure to conduct due diligence on the Westpoint companies associated with the investment (26); inadequate explanation of the risks associated with the investment (25) and a failure to conduct adequate research on the features and structure of the investment (25).

6.3 Research Question 2: The Ethical Issues Currently Faced by Focus Group Participants in the Provision of Financial Advice

Research question 2 considered the perceptions of each respondent group of the current ethical issues facing them in their respective roles. This question was explored through a focus group of both financial planners and compliance officers conducted on 6 February 2008 as stage three of the research.

The methodology documented in section 5.5 of Chapter 5 of this thesis was adopted for the purposes of conducting the session and analyzing the associated data.

As identified in section 5.5 of Chapter 5, the focus group participants were asked to provide responses to the following three questions in turn:

Question 1 - What are the current ethical issues facing financial planners?

Question 2 – What are the current ethical issues facing compliance officers in their roles?

Question 3 – What are the factors you believe are influencing the ethical decision making of financial planners and compliance officers?

A copy of the transcript of the focus group session is annexed to this thesis at Appendix D.10. There are numerous other appendices annexed to this thesis that present the data from the focus group session and its analysis. Where possible the participants' own words are replicated in each Appendix.

Data associated with the general outcomes of the focus group session and participants' responses to questions one and two prior to analysis are presented in Appendix D.11.

This Appendix documents the number of responses received to question 1 in column one; the facilitator's proposed grouping of the response by primary theme in column two and the ethical issues identified by the focus group participants in column three.

Tables collating the scores for the focus group responses to questions 1 and 2, against proposed ethical themes are provided in Appendix D.12. The Appendix identifies each response received by number in column one; highlights the ethical issues identified by the participants in column two, provides the individual ranking scores given to each issue by participants in column three, illustrates the scores given to those rankings in column 4 and the total ranking score for each issue in column five.

Table 6.5 below outlines the top five responses of focus group participants to the first question asked of them concerning the current ethical issues facing financial planners.

Table 6.5: Focus group perceptions of the top five ethical issues facing financial planners in the provision of advice to consumers

No.	Ethical Issues Identified by Participants	Corresponding Ethical Principle	Ranking Score
1	To always act in best interest of client.	Professionalism	50
2	Conflict within current advisory models between time pressures; the need for advisers to produce income for themselves (and licensee) and the desire to provide appropriate advice and undertake appropriate research.	Diligence	45
3	Determining an appropriate risk tolerance for clients.	Competence	38
4	To be honest.	Integrity	37
5	Conflicts of interest associated with ownership of financial products by larger financial services organisations/ fund managers. Pressure / conflict between advice in the interests of the client and the Licensee's Approved Product List and possible quotas.	Objectivity	30

***Source*: developed by the researcher**

The primary ethical issue identified by the participants as facing financial planners in their current role was to always act in the best interests of the client (50). The focus group identified that "Professionalism" was the most appropriate ethical principle to which this issue corresponded.

The second ethical issue identified by the participants was the perceived conflict of interest that existed for financial planners between the desire to provide appropriate advice to clients, time pressures within current advisory models and the need to produce income for themselves and their AFS Licensees (45). This ethical issue was linked by the focus group to the ethical principle of "Diligence", although it could have also been grouped against "Objectivity".

The third ethical issue identified by the focus group was determining the client's tolerance to risk (38), followed in fourth place by the obligation to be honest (37). The fifth ethical issue was the perceived conflict of interest arising from ownership structures amongst larger AFS Licensees and the impact this ownership structure has on limiting the approved financial product lists from which financial advisers can give advice. This issue was perceived to be compounded by the impost of performance targets set for the sale of particular financial products within those businesses which is in turn perceived to impact on the quality and independence of the advice (30).

The second question asked of focus group participants concerned the current ethical issues facing compliance officers in their roles. Table 6.6 below has documented the top five responses to this question.

The group perceived that the number one ethical issue facing compliance officers currently in their role is how to ensure the provision of impartial advice by their financial planning divisions in an environment where there are pecuniary incentives from financial product issuers for financial planners to recommend that clients invest in certain financial products (40).

This issue was followed by a perception that compliance officers were hampered by upper management in their ability to discipline advisers when their performance or conduct was inadequate (39). The perception of the focus group was that compliance officers were at times directly or indirectly pressured by management to take a softer approach.

Table 6.6: Focus group perceptions of the top five ethical issues facing compliance officers in their role.

No.	Ethical Issues Identified by Participants	Corresponding Ethical Principle	Ranking Score
1	Provision of impartial advice to clients in an environment where there is pecuniary incentive for planners from product issuers to sell financial product.	Fairness	40
2	Disciplining advisers when their performance is inadequate from a compliance perspective.	Competence	39
3	Damage to the profession caused by crises such as Westpoint, leading to increased expectations of Compliance officers and due diligence mechanisms.	Professionalism	30
4	The conflict between meeting business needs and profitability versus compliance responsibility. Do overseas parent companies understand Australia's complex compliance framework?	Integrity	28
5	Lack of diligence by advisers in following compliance procedures.	Diligence	26

***Source*: developed by the researcher**

The third ranked ethical issue facing compliance officers, as perceived by the focus group, was the damage to the financial planning profession caused by investment failures, such as Westpoint (30) and the pressure on compliance officers to prevent such failures within their businesses. This was followed by the perceived conflicts of interest associated with business pressures and current advisory models and the conflict between ensuring compliant advice was given and meeting commercial obligations (28). The fifth ranked ethical issue facing compliance officers was the perceived lack of diligence shown by advisers in following compliance procedures (26).

Appendix D.13 documents the focus group participants' responses to the third question posed to the group. In Appendix D.13, each focus group participant is identified by a number in column one. A transcript of the participant's response appears in column two and the researcher's analysis of the general ethical themes associated with each response is provided in column three.

In summary, the data in Appendix D.13 highlights the following perceptions about the current issues influencing ethical decision making within financial services organisations:

1. the conflict between business and profit imperatives and the provision of compliant advice that is in the clients interests;
2. management of the financial services organisation and their support for ethical values and conduct;
3. the current focus on the process required for the provision of advice and not the adviser conduct associated with it;
4. the conflicts of interest inherent in ownership structures associated with the manufacturing, issuing and selling of financial products through advisory arms; and
5. the corresponding pressure on financial advisers to sell financial products and the setting of sales targets.

The analysis outlined in this section, whilst being of merit in its own right, was also used to assist in the formulation of the main research questionnaire. For example, it assisted in ensuring that the case scenarios used in the FAIT instrument contained relevant and current ethical issues perceived as being faced by financial planning participants in the provision of financial advice.

6.4 Descriptive Statistics of the Main Research Questionnaire Sample.

Stage five of the research comprised data collection and analysis of the main research questionnaire results.

The main research questionnaire was distributed by email link through an online server to 770 participants on 6 June 2008, as outlined in section 5.8 of Chapter 5. All 770 participants met the eligibility criteria to undertake the survey as representatives of the two respondent groups required for the study. The main survey sample did not include any participant who had completed the pilot survey and the results of the pilot survey are not included in the data analysed in this Chapter.

Of the 770 persons, 165 responded to the survey. One hundred and sixty two of these respondents completed the questionnaire online and three participants chose to download a copy of the questionnaire and provide hard copy results to the study.

The response rate to the main research questionnaire represented a percentage response rate of 21.4% of the sample group, which was quite disappointing, although above the anticipated response rate of 19% outlined in Chapter 5. McDonald and Adam (2003) have found that response levels for online surveys is relatively low compared to postal data collection methods. On reflection, other matters may have also contributed to the low response rate, including the length of the survey and its complexity (for example: the response rate dropped to 116 by Section 4, scenario 4) and the significant number of surveys financial services professionals are asked to complete at any time.

It is recognized that this is a relatively small sample which may have caused bias, but the sample size is consistent with other research found in the literature and the results from the 165 respondents is of appropriate size to conduct the detailed analysis which was undertaken in this stage of the research. This detailed analysis has generated the results presented in the rest of this Chapter.

So as to present a demographic profile of the sample for the main research questionnaire, descriptive statistics of the demographic variables were conducted, using the data from responses to the demographic survey in section one of the main research questionnaire.

The overall response rates for section I of the questionnaire are represented in Appendix D.14. The response rates for each question ranged from 165 responses for question 1 ("Do you represent an Australian Financial Services Licensee in the provision of financial advice under the Corporations Act (2001)?") to 109 responses for question 4 ("Do you hold a Professional Designation?").

Frequency tables for all 11 questions in Section 1 are also appended to this thesis at Appendix D.15. The percentage of total respondents identified for this purpose does not include those respondents who did not answer any particular questions.

Table 6.7 below contains the distribution of frequencies and the percentage of respondents who held authorized representative status for AFS Licensees, as asked in question 1 of the demographic survey. Within this survey sample, 149 respondents claimed to represent an AFS Licensee in the provision of advice to consumers and sixteen did not.

Table 6.7: The distribution of frequencies and percentage of respondents who represented an AFS Licensee.

Section 1/Question 1 - Do you represent an Australian Financial Services Licensee in the provision of financial advice under the Corporations Act (2001)?		Frequency	Percent
Valid	Yes	149	90.3
	No	16	9.7
	Total	165	100.0

As outlined in Table 6.8 below, of the 161 participants who answered question 2 - Do you hold the following role or roles within your Licensee, 130 respondents were classified as a financial adviser, 35 respondents recorded that they held a compliance role within their organisation and 20 respondents were also a responsible manager, holding day to day management responsibility for the advice given by financial advisers within the organisation. In total therefore, at least 29 respondents held a dual role within their organisation and 16 of these respondents, although being qualified to do so were not currently in advisory roles, but rather supervised the advice given by other advisers. Four respondents chose not to answer the question.

Table 6.8: The division of respondents by their role within the AFS Licensee

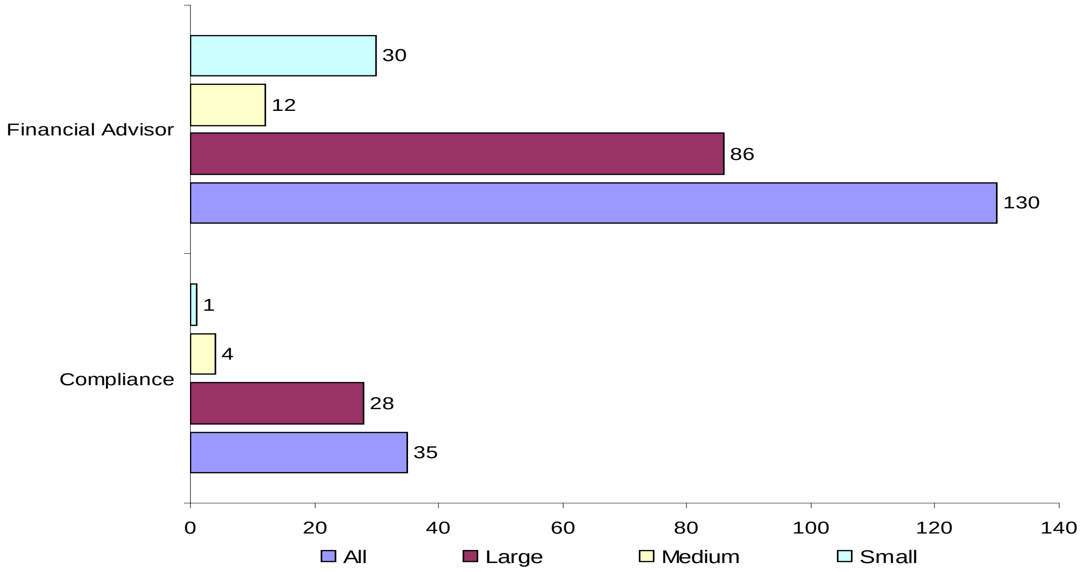
Question	Category	Frequency	Percent
Section 1, Question 2 - Do you hold the following role or roles within your Licensee?	Financial Adviser	130	80.00
	Compliance Officer	35	20.00
	Total	165	100

The main survey sample was also stratified by education level; primary remuneration source, age, gender and years of experience in accordance with the groupings used by Bigel (1998) in his study of the cognitive ethical reasoning of financial planners. The survey sample was also stratified by respondent role and size of organisation.

Graph 1 below indicates that 69% of the survey sample, or 114 respondents, advised that they worked for or represented a large AFS Licensee, defined for the purposes of the study as being an organisation with more than 50 financial advisers. Sixteen respondents (9.7%) came from medium sized AFS Licensees of between 10 to 50 financial advisers and 31 participants (18.8%) advised they worked for or represented small financial services organisations of between 1 to 9 advisers. Four respondents (2.4%) did not answer this question.

Based on the annual research conducted by Money Management Magazine (2007) into the Australian Financial Planning industry, the survey sample is indicative of adviser engagement rates between large, medium and small firms.

Graph 1: Role of questionnaire respondents within financial services organisations against size of firm.



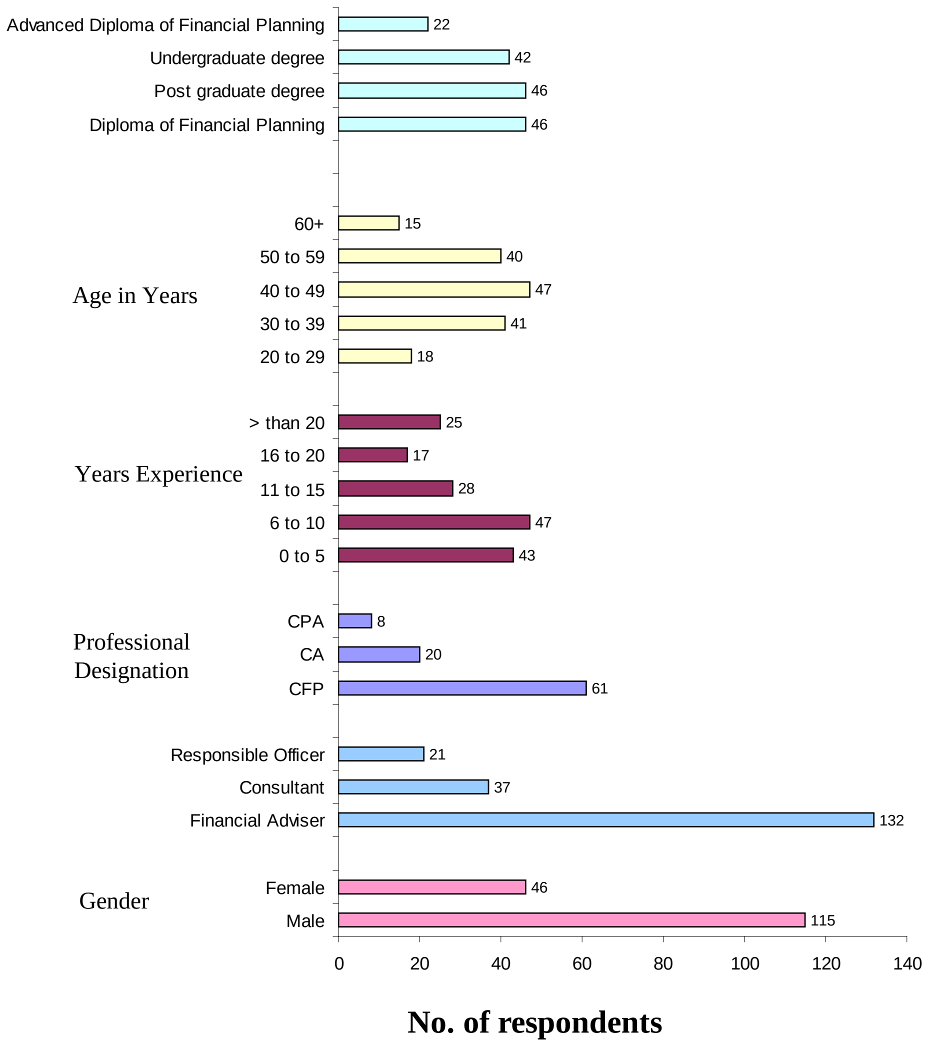
No. of respondents

Graph 2 below provides the response rates for the demographic questions related to the gender, age, the professional designation, education level and years of experience of the survey's participants. These five demographic categories are used further as variables in the study's hypotheses.

(A) Gender

The data in Graph 2 shows that the survey sample included 46 females (28%) and 115 males (70%). This two thirds/one thirds split may be indicative of an overrepresentation of men in the financial services industry per se. Four respondents chose not to answer this question.

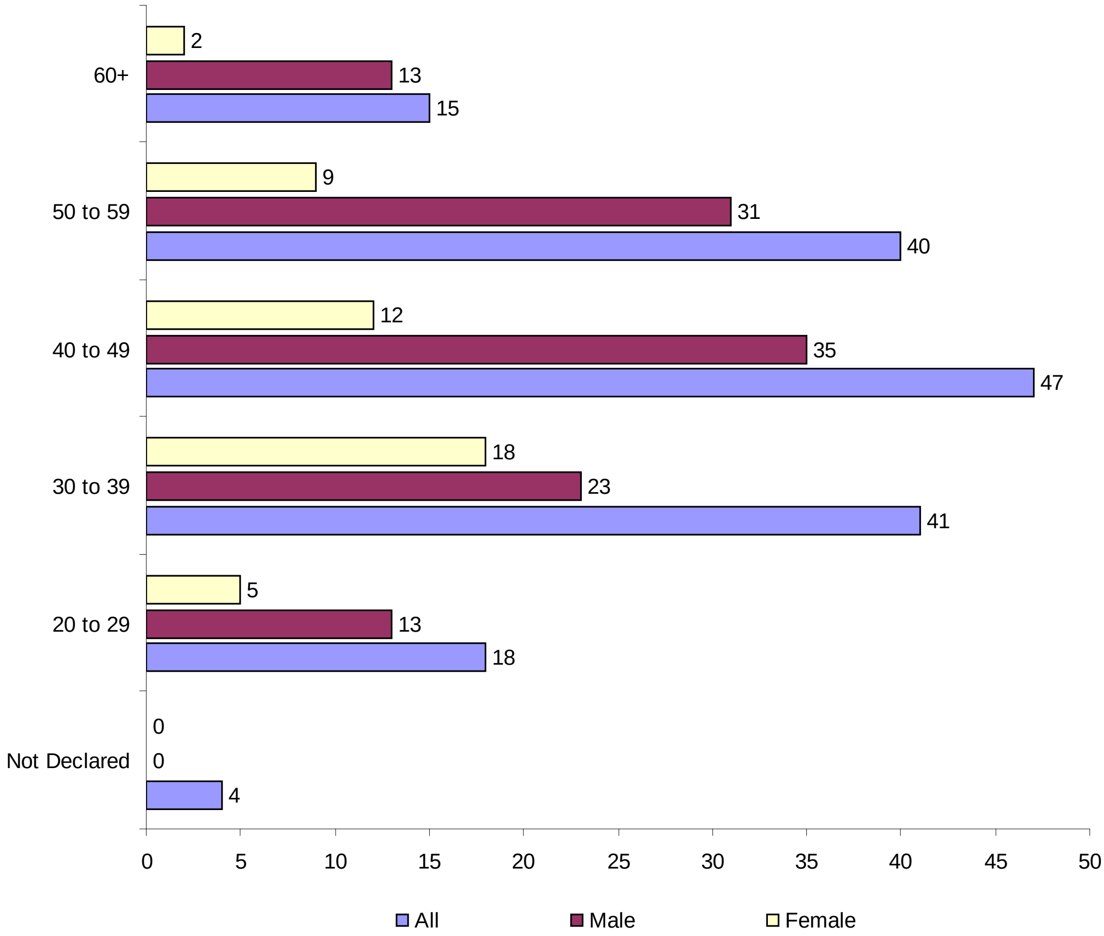
Graph 2: Frequencies and data related to five demographic questions used as variables in the study.



(B) Age

A total of 63.65% of the sample group was aged 40 years and over (47 respondents + 40 respondents + 15 respondents =102 respondents). Only 36.6% (18 respondents + 41 respondents) were aged 20 to 39. However, all age groups were represented in the survey, with the smallest category being the over 60's age group, with 15 participants. The largest representative age group was 40 – 49 years (47 respondents or 28.5%), followed by 30 - 39 years (41 respondents or 24.8%) and 50-59 years (40 respondents or 24.2%). Again, four respondents chose not to respond to this question.

Graph 3: Age of questionnaire respondents against gender



No. of respondents

The data in Graph 3 above demonstrates the age of respondents by gender. The graph indicates there were more men than women in every age group, with the biggest differences being in the 40 - 49 age group (35 males/12 females) and the 50 - 59 age group (31 men/9 women). The graph illustrates that the largest group of female respondents came from the 30 - 39 year age group (18), followed by those in the 40 - 49 year age group (12).

(C) Professional Designation

The data presented in Graph 2 also highlights that in terms of the professional designations held by the sample group, 61 respondents or 37% held the CFP® designation, thus requiring them to be members of the FPA. Twenty participants identified themselves as chartered accountants and only eight respondents advised that they held the CPA designation. Three respondents held both the CFP® and CA designation or CFP® and CPA designations. These respondents were treated as belonging to the accounting designation for the purposes of statistical comparison with the CFP® designation, leading to 31 participants being classified as accountants. There were 20 participants who classified themselves as holding “other’ designations, other than those listed as a response option in the survey question. Other data provided by these respondents to the questionnaire suggested that they held professional designations from the Australian Compliance Institute, amongst other professional associations. Fifty six respondents or 34% of the sample group held no designation at all.

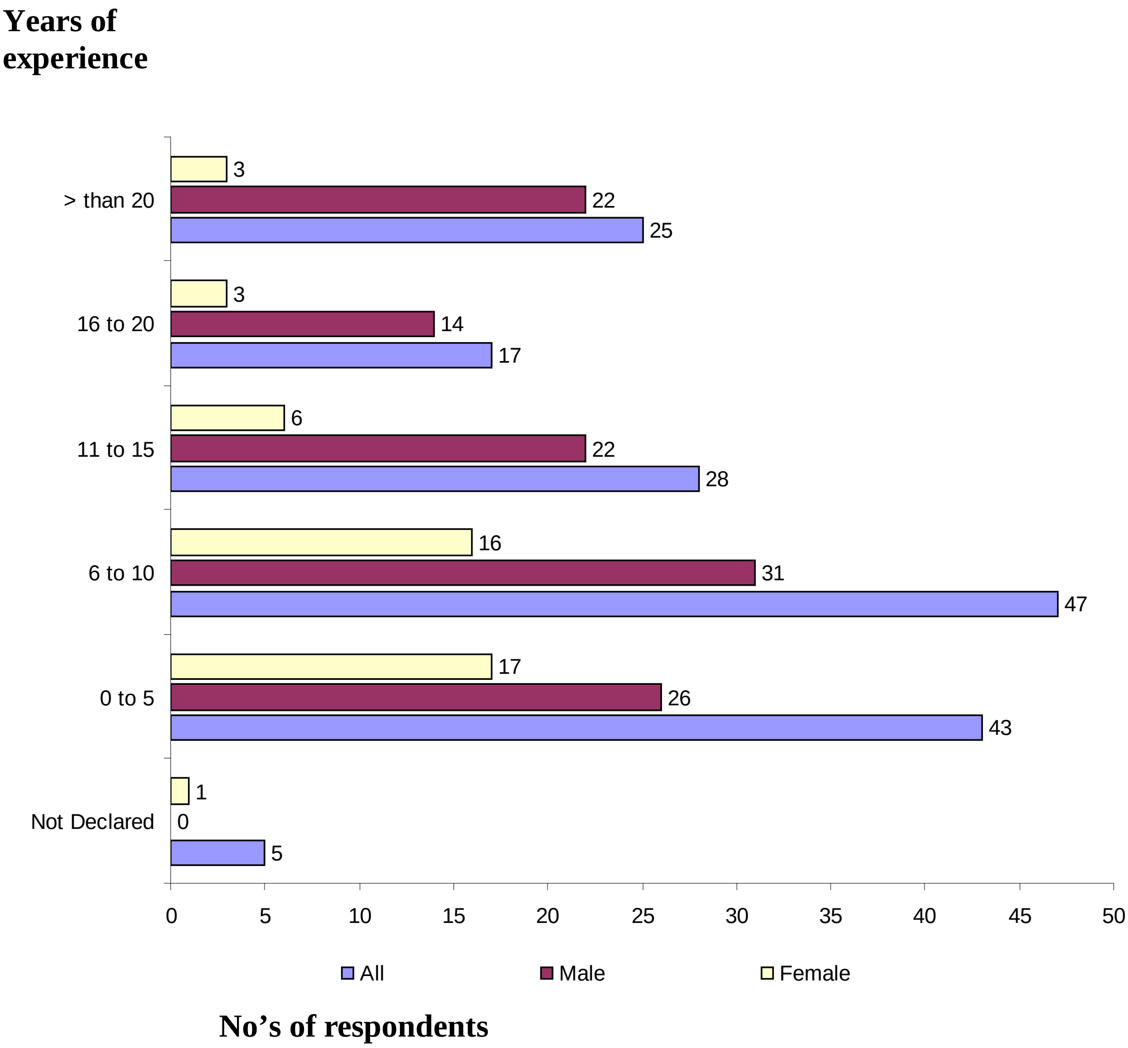
(D) Education

The data in Graph 2 indicates that the questionnaire sample came from a broad education background. However, the majority of respondents held at least some type of qualification. Forty one percent of the sample or 68 respondents either held a Diploma of Financial Planning or an Advanced Diploma of Financial Planning. Eighty eight respondents (53.3%) held either an undergraduate or post graduate degree. The data identified nine respondents who did not answer the question.

(E) Years of Experience

Question 8 of the demographic survey sought information from the respondent about their years of experience in their respective role. The data in Graph 2 indicates that the sample was broadly representative of all experience bands with 56.3% (47 + 43) having 10 or less years experience and 43.7% (28 + 17 + 25) having 11 or more years of experience. The largest experience band was 6 – 10 years experience with 47 respondents, followed by 0 - 5 years (43), 11 – 15 years (28) and more than 20 years experience (25). Five respondents chose not to answer this question.

Graph 4: Frequencies related to the years of experience of the questionnaire respondents against their gender

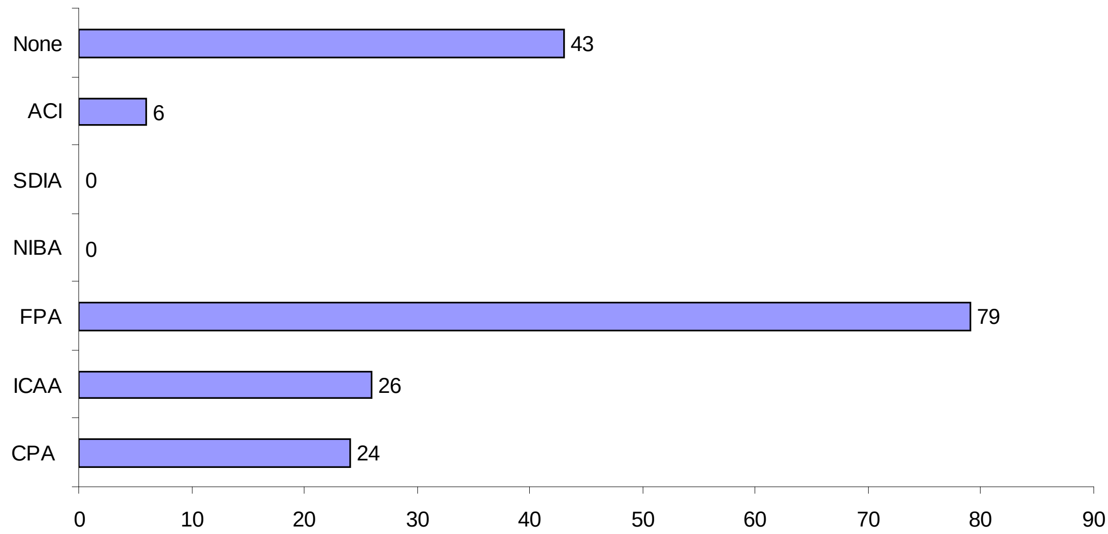


Graph 4 above demonstrates the years of experience of the survey participants against their gender. The graph illustrates that there were more men than women at every experience level. The highest numbers of women were found in the 0 – 5 years of experience band (17) and 6 – 10 years of experience band (16).

(F) Professional Association Membership

The data represented in Graph 5 below presents the responses to demographic question 6 ("Are you a member of any of the following Professional Associations?"). The question sought information from respondents about their membership of the different professional associations in the financial services sector. The question allowed for dual membership of different associations which accounts for the totals represented in the graph being more than the total number of respondents.

Graph 5: The distribution of frequencies and percentage of the questionnaire respondents' membership of professional associations



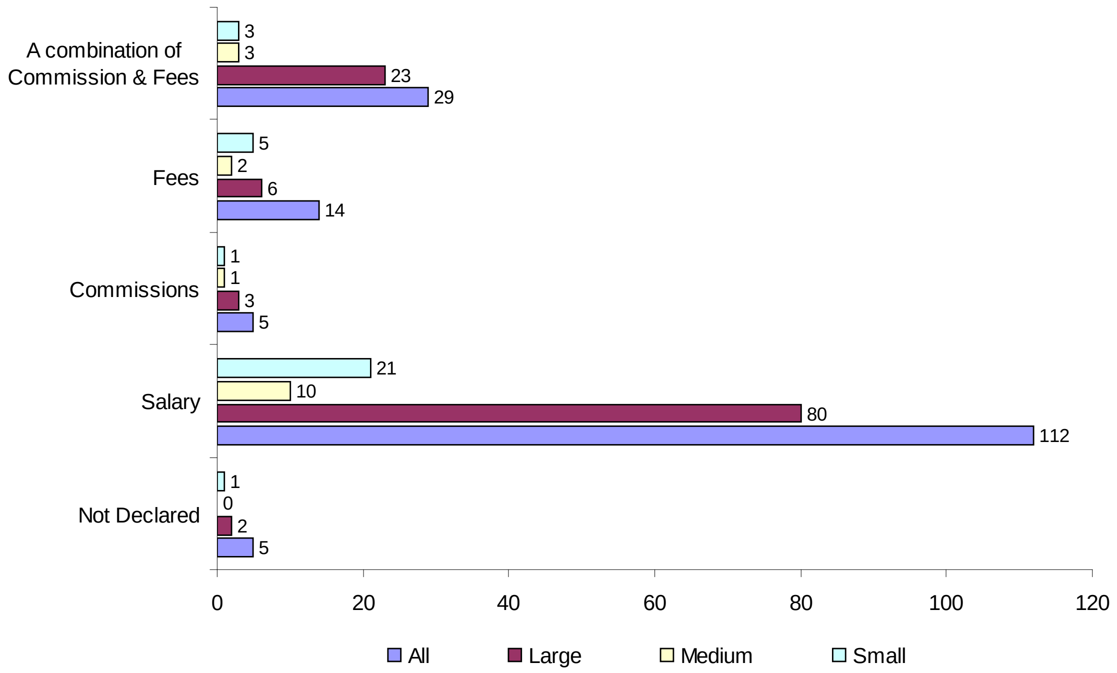
No. of respondents.

Graph 5 illustrates that 79 respondents (47.9%) were members of the FPA. Fifty respondents identified themselves as accountants. Of these, the ICAA was represented by 26 members or 15.8% of the sample and CPA Australia was represented by 24 respondents or 14.5% of the sample. Six respondents identified themselves as members of the Australian Compliance Institute. There were no respondents who identified themselves as members of the SDIA or NIBA. Over 26% of the survey's respondents did not declare membership of any of the suggested associations.

(G) Remuneration

The data associated with the responses received to question 7 of section 1 ("How are you primarily remunerated?") is presented in Graph 6 below.

Graph 6: Primary remuneration type of questionnaire respondents against size of organisation.



Size of firm

The high percentage of salary earners in the sample group at 67.9% (112 respondents) was interesting. Given the industry statistics that the majority of advisers still rely on commissions as part of their remuneration structure (Money Management 2007), this group seemed overrepresented in the sample. Only 21% of the survey's respondents (20.6% rounded up) received commissions either alone (3% or 5 respondents) or in combination as a primary source of their income (17% or 29 respondents).

This result may in part be explained by the fact that the survey sample contained 35 respondents from the compliance officer respondent group and all of these respondents listed salary as their primary source of remuneration.

When tiered against the size of the organisation, the figures in Graph 6 above illustrate that the majority of respondents from each of the three AFS Licensee sizes identified their primary source of remuneration as salary. Eighty respondents (70%) from large organisations identified salary as their primary source of income. Twenty one respondents (67.7%) from small organisations and 10 respondents (62.5%) from medium firms also responded that salary was their primary source of income.

Only six respondents (5%) from large organisations identified fees received from clients as their primary source of remuneration, compared to five respondents for small AFS Licensees and two from medium size firms. The significant number of those respondents who responded that a combination of fees and commissions was their primary remuneration source came from large organisations, or 23 out of 29 respondents overall.

(H) State of Residence

The data related to the primary state of residence of survey participants is displayed in Table 6.9 below.

Table 6.9: The distribution of frequencies and percentages of the state of residence of questionnaire respondents

Question 11 – In which State do you reside?		Frequency	Percent
Valid	Victoria	62	37.6
	New South Wales	59	35.8
	South Australia	12	7.3
	Western Australia	12	7.3
	Queensland	12	7.3
	Tas	1	.6
	Northern Territory	2	1.2
	ACT	1	.6
	Total	161	97.6
Missing	System	4	2.4
Total		165	100.0

This table suggests that 62 respondents came from Victoria (37.6%). This was followed by 59 participants from NSW (35.8) and 12 participants from each of South Australia, Western Australia and Queensland (7.3% each). Four participants chose not to answer this question.

Whilst no correlations were conducted using residence as a variable, the data in table 6.9 indicates that there was at least one participant from each Australian state and territory. The prevalence of respondents from New South Wales and Victoria (73.4% or 121 respondents) was anticipated given the survey mailing list was derived from the financial services client database of Argyle Lawyers Pty Ltd, which has offices in Melbourne (Victoria) and Sydney (New South Wales).

6.5 *Response Rates and Frequency Scales for the Financial Advisory Issues Test*

The first set of correlational relationships examined for the purposes of this thesis were associated with Research Question 3. This question explored whether variables, such as cognitive levels of ethical reasoning, age, gender, experience and education, affected the ethical decision-making of individual respondents to the main research questionnaire.

The data associated with the measurement of cognitive ethical reasoning was derived from the FAIT instrument, which was contained in Section 4 of the main research questionnaire. The demographic information required for testing the hypotheses associated with Research Question 3, was gathered from responses to Section 1 of the questionnaire, as previously discussed in section 6.4 of this chapter. This section of Chapter 6 presents the response rates and frequency scales for the FAIT instrument.

As discussed in section 5.6.5 of Chapter 5, each of the four scenarios within the FAIT instrument contained a unique fact situation followed by a series of activities. Part A of each scenario asked respondents to provide a yes/no/don't know response to a question about the resolution of the ethical dilemma posed. Part B asked respondents to rate 12 statements on a seven point Likert scale based on the preferred relevance of that statement to the resolution of the ethical scenario posed. Part C required respondents to then rank the four statements they considered most relevant to the resolution of the dilemma.

The overall response rates and frequency tables for responses to the FAIT instrument are represented in Appendices D.19 to D.23. The response rates for each case scenario ranged from 141 for Scenario 1 (Business Referrals); 130 for Scenario 2 (Superannuation advice); 127 for Scenario 3 (Margin lending) and 125 for Scenario 4 (Westpoint).

Frequency tables for Part A responses to each case scenario are presented in Appendix D.18. In terms of the responses to Part A in case scenarios 1, 2 and 4, the significant majority of respondents chose the more overt ethical action to resolve the dilemma, namely that Ros should not send the client to the solicitor's firm in scenario 1 despite the firm's policy that she should do so (75.8%); that Andrew should not switch the existing investments to in-house products in scenario 2 (69.1%); and that Nicholas should advise his Licensee of his concerns with another adviser's advice in scenario 4 (68.5 %).

The results were not as clear cut for the responses to Part A of scenario 3. For that scenario, only 44.8% of respondents favoured the view that Jessica was not entitled to all of the fees that may be associated with her advice to Kevin, whereas 15.8% of respondents believed she had an entitlement to all fees. This scenario also had the largest percentage of respondents who could not decide on the action Jessica should take (17%).

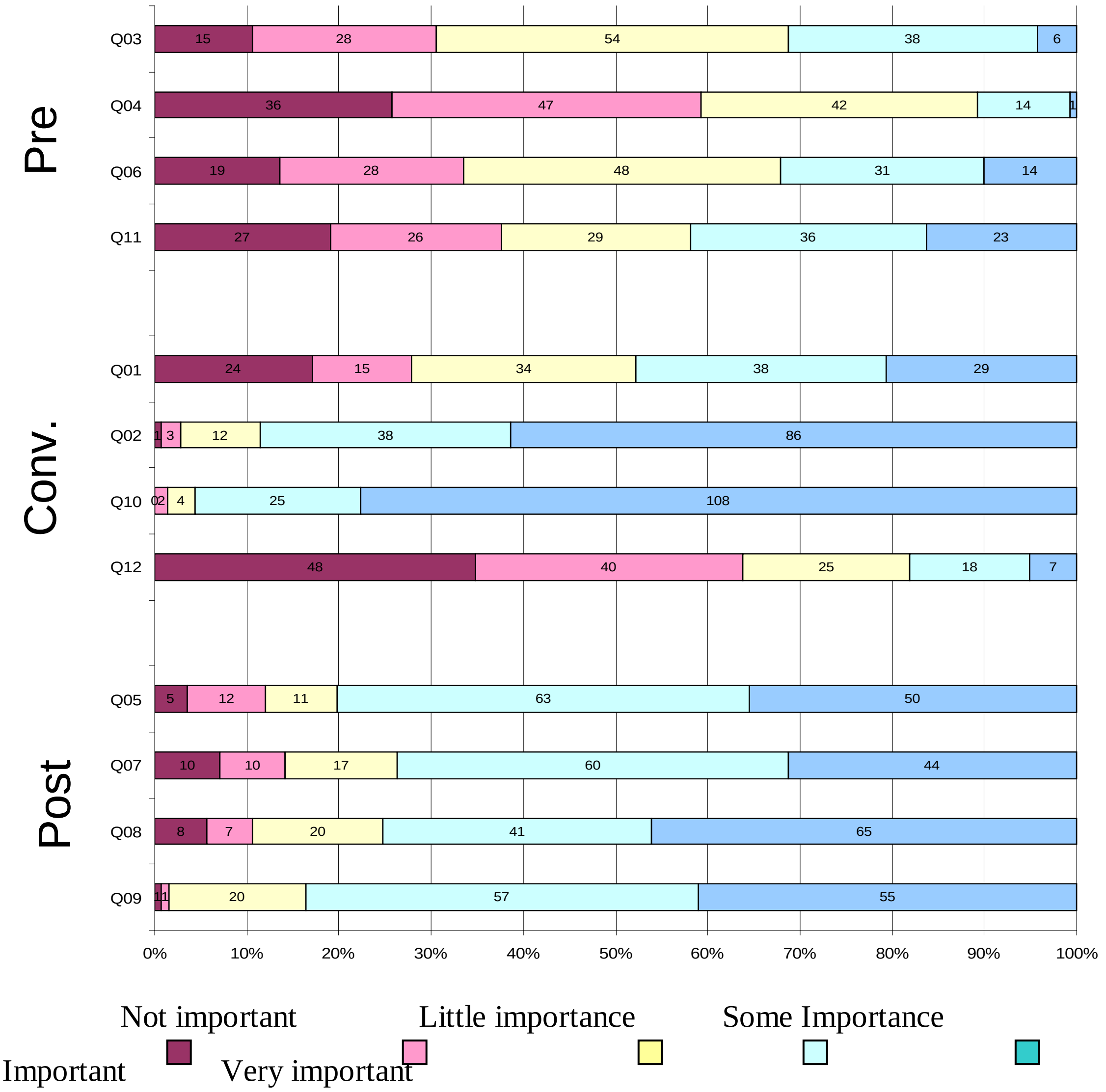
The mean and median scores and standard deviations for Part A and Part C responses to each of the four case scenarios were not analysed, due to the nature of the data captured in each Part. All three frequency scores were calculated for the Part B responses to each case scenario and the data on which this these scores are based, is recorded in Appendices D.19 (case scenario 1) to D.22 (case scenario 4).

The mean scores and the percentage combination of important and very important scores for the responses to Part B of the four case scenarios are annexed to this thesis in Appendix D.23.

Graphs 7 to 10 below present the ratings responses to the 12 issues in Part B of Scenario 1 in a different format. These graphs show the ratings given to each of the 12 issues by the respondents to each scenario, according to their relative importance to the resolution of the dilemma posed across a five point likert scale (where 1 equalled not important and 5 equalled very important).

The 12 issues have been grouped according to the three stages of ethical reasoning (pre-conventional, conventional and post conventional reasoning) that they were deemed to represent (shown on the left hand axis) and as illustrated in Table 5.6 in Chapter 5 and Appendix C.12. The numbers shown in the graph bars represent the number of respondents who rated the particular issue at that point along the Likert scale. Changes in the numbers reported for each issue in Graphs 7 to 10 are the result of least wise deletions from the data. The bottom axis of the graph represents the percentage of respondents by their ratings for each scenario.

Graph 7: The percentage scores for ratings responses to Part B of Scenario 1 of the FAIT instrument



Graph 7 illustrates that conventional issues such as issue 10 (Whether it is unlawful to refer the client to this firm without disclosing the relationship) and issue 2 (Would the referral be consistent with what Ros thinks is right?) were rated as very important or important issues to the resolution of the dilemma by the highest number of respondents (133 responses or 95% for issue 10 and 124 responses or 88% for issue 2).

The four post conventional issues were also considered by the respondents to be important or very important to the resolution of the dilemma (Issue 9 What factors are relevant in determining Ros' professional responsibility? – 83%; Issue 5 Do the firm's commercial arrangements impact on Ros' professional reputation? – 80%; Issue 8

Whether the fiduciary duty Ros has is higher to her employer or the clien?t – 76% and Issue 7 Whether someone in Ros' position should object to the firm's practice? – 75%).

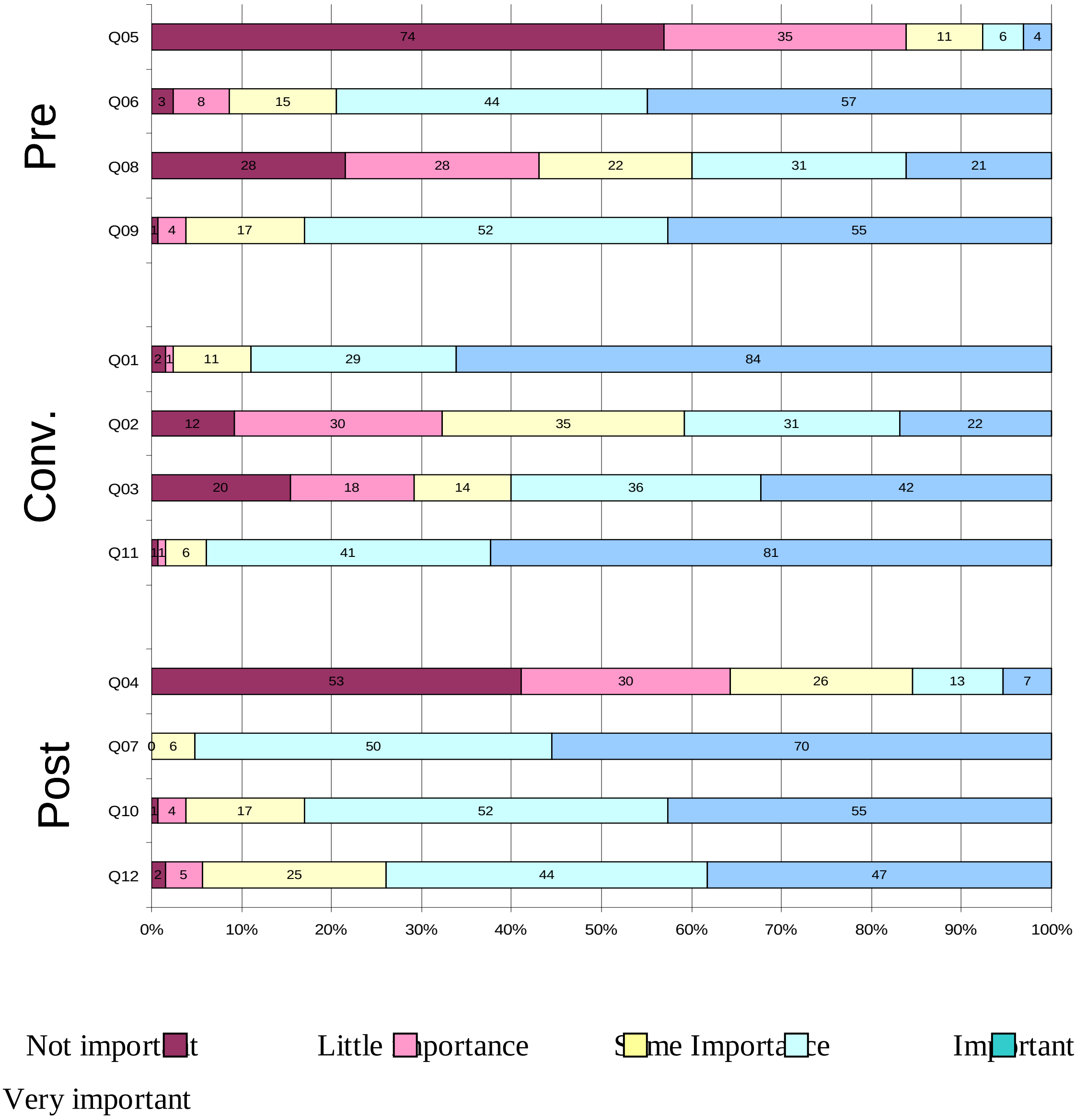
Conversely, conventional issue 12 (What action would Ros' co-workers expect her to take?) had 64% of respondents rate it as not important or of little importance to the resolution of the dilemma. In addition, all four pre-conventional issues had high percentages of respondents who rated them as not important or of little importance to the resolution of the dilemma (Issue 4 What is best for Ros' firm? – 59%; Issue 11 Would the client really care about the arrangement provided she got appropriate legal advice? – 38%; Issue 6 Whether Ros' job may be threatened if she refuses to refer the client – 33% and Issue 3 What are the consequences for Ros if she goes against firm policy? – 31%).

Graph 8 below displays the ratings data for Part B of case scenario 2. Graph 8 illustrates that post conventional issue 7 (Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?) followed by the conventional issue 11 (Does a switching recommendation constitute a breach of Andrew's professional obligations?) were rated as very important or important issues to the resolution of the dilemma by the highest number of respondents (130 responses or 95% for issue 7 and 122 responses or 94% for issue 11).

Two other post conventional issues had high percentages of respondents score them as important or very important to the resolution of the dilemma (Issue 10: Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general at 83% and Issue 12: What values are the basis for determining which stakeholder's interests takes precedence when they conflict? at 74%).

Conversely, the other post-conventional issue, number 4 (Would a switch recommendation violate the interests of the other citizens of Olbury?) had 64% of respondents rate it as not important or of little importance to the resolution of the dilemma.

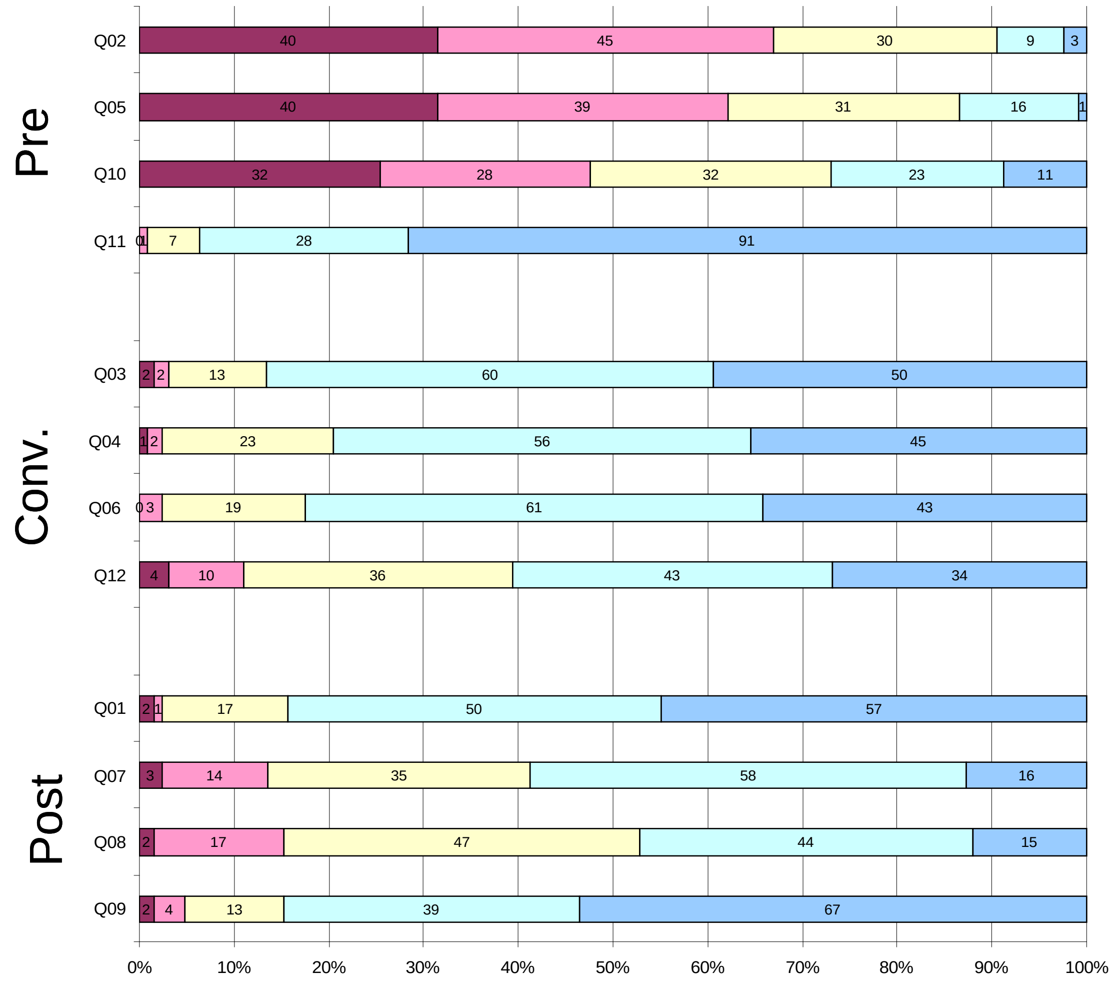
Graph 8: The percentage scores for ratings responses to Part B of Scenario 2 of the FAIT instrument



Two pre-conventional issues had high percentages of respondents rate them as not important or of little importance to the resolution of the dilemma (Issue 5: Whether other Licensees recommend switches to in-house products at 83% and Issue 8: What are the risks to Andrew in making the switch recommendation? at 43%). However, pre-conventional Issue 6 (Is payment of an exit fee justified in the circumstances?) and Issue 9 (Are the couple actively seeking employment?) had very low percentages of respondents rate then as not important or of little importance to the resolution of the dilemma (8% for Issue 6 and 4% for Issue 9).

Graph 9 below presents the ratings data for the 12 issues in Part B of case scenario 3.

Graph 9: The percentage scores for ratings responses to Part B of Scenario 3 of the FAIT instrument



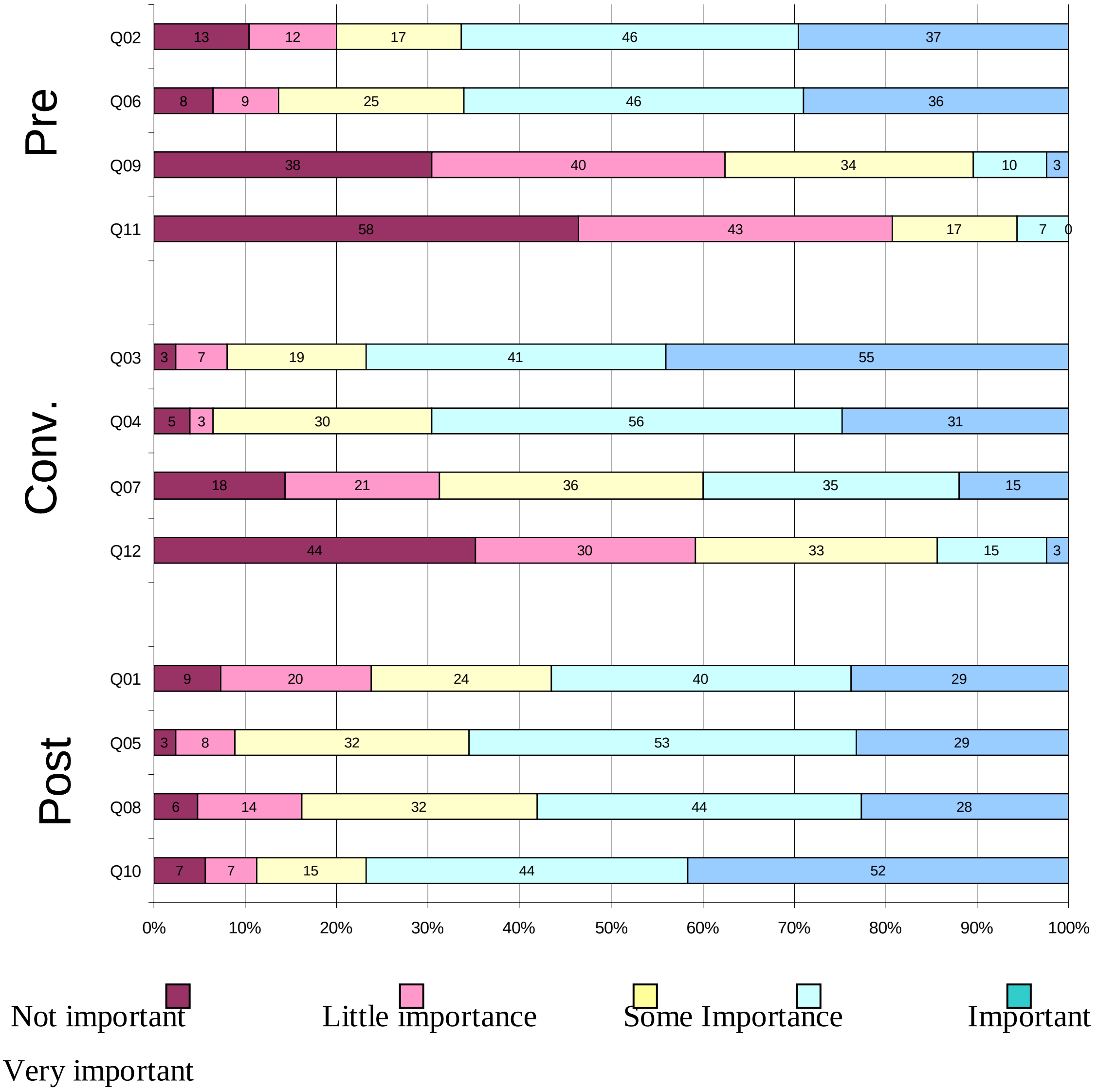
Not import t Little portance S me Importa ce Important

Very important

The data indicates that generally respondents preferred conventional and post-conventional issues to assist in the resolution of this dilemma, to pre-conventional ones. However, pre-conventional Issue 11 (Whether Kevin understands the level of service and what it will cost?) was rated by the most respondents as important or very important to the resolution of the dilemma (93%).

Graph 10 below presents the percentage ratings responses to the 12 issues for Part B of case scenario four.

Graph 10: The percentage scores for ratings responses to Part B of Scenario 4 of the FAIT instrument



Post-conventional issue 10 (Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?) and conventional issue 3 (Is there also an ethical breach that should be reported to a professional body?) were rated equal in their importance to the resolution of the dilemma by respondents (96 responses each or 76%).

Conversely, conventional issue 12 (What impact will it have on Nicholas' reputation within the Licensee?) had 59% of participants rate it as not important or of little importance to the resolution of the dilemma. Only two pre-conventional issues had high percentages of participants who rated them as not important or of little importance to the resolution of the dilemma (Issue 11: Will it have an adverse effect on Nicholas' relationship with the other adviser? – 81% and Issue 9: How will Nicholas' actions be perceived by other advisers within the Licensee? – 63%). Pre-conventional Issue 6 (What are the consequences to Nicholas if he doesn't advise someone of his concerns? – 67%) and Issue 2 (What research did the previous adviser do? – 66%) had high percentages of participants instead rate them as very important or important issues to the resolution of the dilemma.

6.6 Research Question 3 – The Relationship between Individual Attributes and Cognitive Ethical Reasoning

6.6.1 Correlation table for the ethical reasoning scores and the individual dimension

There were numerous methods that could have been used to report on the data analysis undertaken to measure the nine hypotheses in this thesis. It was decided to display the correlations in three different tables, representing cognitive ethical reasoning scores against the individual, situational and contextual dimensions studied.

Section 6.6 of the Chapter outlines the results related to research question 3 and whether statistically significant relationships were found between the individual attributes of respondents and cognitive ethical reasoning.

Prior to the calculation of the three ethical reasoning scores from the FAIT instrument data, 43 respondents were identified as having failed to complete two or more of the FAIT case scenarios and were therefore excluded from this analysis, in accordance with the methodology outlined in section 5.6.5 of Chapter 5. These calculations are reported in Table 6.10 below.

This left data from 122 respondents from which to calculate ethical reasoning scores and undertake hypothesis testing. Six of these respondents completed 3 case scenarios. Their scores were adjusted on a pro-rata basis and converted to a percentage by the number of scenarios they completed, in accordance with the guidelines established in section 5.6.5 of Chapter 5.

Table 6.10: Questionnaire respondents omitted from the FAIT instrument analysis

Reason for review of respondent's score	Number
Failed to complete three or four scenarios so omitted	34
Failed to complete two scenarios so omitted	9
Failed to complete one scenario so score adjusted	6

***Source*: developed by the researcher**

Table 6.11 below displays the statistical relationships between the three ethical reasoning scores measured by the study against the individual dimensions studied namely age, experience, gender, professional designation and education level achieved. The demographic data used in the analysis was obtained from responses to the demographic survey in section 1 of the research instrument. For ease of reporting, the statistical relationship with the dimension of role is also reported in table 6.11, despite role being treated as a contextual factor for the purposes of hypothesis testing.

Within this thesis, all correlation tables report results of significance at a two tailed level, as this is a common convention in the reporting of results (Hair *et al.* 2006). As all hypotheses, except hypothesis 7, have stated a direction, significance at a one-tailed level is also reported within the discussion.

Table 6.11: Correlation Table I: Correlations between ethical reasoning scores and the individual dimensions studied

		1	2	3	4	5	6	7	8	9
1	FAIT	1	*0.89***	*0.38***	*-0.21**	*-0.28***	*0.28***	*0.32***	*0.36***	*-0.12*
2	N2Scorefin	0.90**	1	*0.48***	*-0.04*	*-0.24**	*0.20**	*0.21**	*0.21**	*-0.13*
3	P scoreFin	0.39**	0.51**	1	*0.02*	*-0.21**	*0.15*	*0.16**	*0.22**	*-0.10*
4	Female	-0.22**	-0.06	0.00	1	*0.05*	*-0.06*	*-0.22***	*-0.16**	*0.04*
5	Compliance Role	-0.25**	-0.21*	-0.23*	0.05	1	*-0.27***	*-0.25***	*-0.37***	*-0.03*
6	CFP	0.26**	0.19*	0.16	-0.06	-0.27**	1	*0.50***	*0.29***	*-0.03*
7	Experience Years	0.29**	0.21*	0.12	-0.22**	-0.23**	0.50**	1	*0.54***	*0.06*
8	Age	0.33**	0.23*	0.25**	-0.16*	-0.38**	0.28**	0.55**	1	*-0.01*
9	Education Attainment	-0.09	-0.16	-0.13	0.04	-0.04	-0.04	0.03	-0.01	1

N = 161-110, *p < 05 (2 tailed), **p < .01 (2 tailed)
Spearman's Rho upper diagonal Pearson R lower diagonal

6.6.2 Hypothesis 1: Gender and cognitive ethical reasoning scores

The first hypothesis to be tested related to whether the gender of the survey's participants was an individual factor affecting cognitive ethical reasoning scores and hence ethical decision-making. As presented in Chapter 4, Hypothesis 1 was formulated with three sub hypotheses as follows:

Hypothesis 1: That female gender will be positively related to higher ethical reasoning scores when compared to male gender.

- **1a.** That female gender will be positively related to higher P scores when compared with male gender.
- **1b.** That female gender will be positively related to higher N2 scores when compared with male gender.
- **1c.** That female gender will be positively related to higher FAIT scores when compared with male gender.

The gender of each respondent is a naturally occurring dichotomous variable. The appropriate statistical test when one variable is a naturally occurring dichotomous variable and the other variables are interval variables is a point biserial correlation co-efficient (r_{pb}) (Glass and Hopkins 1995).

For the purposes of the hypothesis testing, 46 'Female" respondents were coded as 1 and 115 "Male" respondents were coded as 0. Being a dichotomous variable, gender was treated as an interval variable. The three ethical reasoning variables FAIT, N2 and P scores were also be treated as interval variables. Since all four variables were interval, a Pearson's r correlation was the appropriate test of association between Female and the three ethical reasoning variables, FAIT, N2 and P scores.

Table 6.11 above indicates there was no significant point-biserial correlation co-efficient correlations between Female and the N2 score ($r_{pbi\ 121}$ = -.062, p = .501) and Female and the P score ($r_{pbi\ 121}$ = .003, p = .977). However, as can be also seen in Table 6.11, the r_{pbi} correlation between Female and the FAIT score is significant ($r_{pbi\ 121}$ = -.222, p = .008). Therefore hypothesis 1a and 1b are not supported but hypothesis 1c is supported. This support will be examined in the next section.

The variables of age (Age), and years of experience (Experience Years) are both ordinal variables with older age, and longer work experience being ranked higher. Spearman rho is the appropriate test of association between Female, Age and Experience Years since the first variable is ordinal and the latter two are interval. A closer analysis of Table 6.11 shows a significant negative Spearman's correlation between Female and both Experience Years (rho_{160} = -. 207, p = .014) and Age (rho_{161} = -. 163, p = .039). The ordinal variables of Experience Years (rho_{140} = .324, p <.001) and Age (rho_{141} = .362, p <.001) also had significant positive Spearman's correlations with the FAIT score.

To investigate the relationship identified further at the zero correlation level between gender and the FAIT score, a partial correlation was conducted. Though point-biserial with naturally occurring dichotomous variables and point-serial with artificially dichotomous could have been used this, however, is not the convention when partial correlations are produced (Meyers, Gamst and Guarino 2006; Hair *et al.* 2006). Meyers, Gamst and Guarino (2005) among others have argued that, in practice, Pearson correlations can be used for dichotomous variables with interval or ratio level variables.

To enable the partial correlation analysis to occur, the two ordinal variables of Age and Experience were made into dichotomous variables. Age was made into a dichotomous variable with the ages 20 - 39 being coded as 1 and remaining ages as 0. This new variable was called young age (YAge). Experience was made into a dichotomous variable with 0 - 10 years being coded as 1 and the remaining years as 0. This new variable was called low years of experience (LExperience).

Both of these new dichotomous variables were as expected not only significantly positively correlated to Female (LExperience (r_{160} = .216, p = .006) and YAge (r_{161} = .175, p = .026), but both low experience (r_{140} = -.316, p < .001) and young age (r_{141} = -.345 p < .001), were also negatively correlated to the FAIT score. This was consistent with the Spearman correlations reported in Table 6.11.

The change of directions of the correlations reflected the change in direction of the variable caused by coding younger age, 20 - 39 as 1 and lower years of experience, 0-10 years, as 1. The Pearson correlations are reported in Table 6.12 below.

Table 6.12: Pearson Correlations of the variables Female, Young Age, Low Experience and FAIT Scores

		1	2	3	4
1	Females	1.00			
2	YAge	0.18^{*}	1.00		
3	LExperience	0.22^{**}	0.47^{**}	1.00	
4	FAIT	-0.22^{**}	-0.34^{**}	-0.32^{**}	1.00

N=161-110, $^{*}p < 05$ (2 tailed), $^{**}p < .01$ (2 tailed)

The partial correlation investigation initially controlled for younger age. Then it controlled for lesser years of experience and finally both variables were controlled for. When YAge was controlled for, the strength of the significant relationship ($r_{141} = -.222$, $p = .008$) seen in Table 6.12 between Female and FAIT was reduced, but still remained significant ($r_{138} = -.170$, $p = .045$). However, when LExperience was controlled for ($r_{137} = -.145$, $p = .089$) both Female and FAIT became non-significant. When both variables were controlled for, the relationship Female and FAIT became even more clearly non-significant ($r_{136} = -.122$, $p = .155$).

The finding from the partial correlation analysis suggested that the zero-order correlation relationship observed in Table 6.11 between Female and FAIT is not significant when the younger age and lower experience of female respondents were controlled for.

6.6.3 Hypothesis 2: Other individual factors that may influence cognitive ethical reasoning scores

The second hypothesis to be tested related to whether other individual factors may affect cognitive ethical reasoning scores and hence ethical decision-making. As discussed in Chapter 4, Hypothesis 2 was formulated with four sub hypotheses as follows:

Hypothesis 2: That the individual attributes of age, education, experience and professional designation will all be positively correlated to higher ethical reasoning scores.

2a. That older age will be positively correlated with higher ethical reasoning scores**.**

2b. That higher tertiary education attainment will be positively correlated with higher ethical reasoning scores**.**

2c. That longer work experience will be positively correlated with higher ethical reasoning scores**.**

2d. That the CFP® professional designation will be positively correlated with higher ethical reasoning scores.

As discussed for hypothesis 1, the variables of Age and Experience Years are both ordinal variables with older age, and longer work experience being ranked higher. Higher Tertiary education attainment (Education Attainment) was also ranked higher. For hypothesis two, the variables of Age, Experience Years, and Education Attainment are all treated as ordinal variables and the three ethical reasoning variables, the FAIT, N2 and P scores are interval variables. Accordingly, the Spearman rho is the appropriate test of association.

The professional designation variable (holding the CFP® designation) was made into a dichotomous variable, with the CFP® designation being coded 1 and not having the CFP® designation being coded 0. A Pearson's r correlation is an appropriate test of association with the FAIT, N2 and P scores in this circumstance (Meyers, Gamst and Guarino, 2006).

The ordinal variables of Age ($rho_{141} = .362$, $p < .001$) and Experience Years ($rho_{140} = .324$, $p < .001$) had significant positive Spearman's correlations with the FAIT score. However, Education Attainment ($rho_{139} = -.124$, $p = .145$) did not. There were also two significant positive Spearman's correlations with the N2score. These were again Age ($rho_{121} = .209$, $p = .021$) and Experience Years ($rho_{120} = .214$, $p = .019$). Education attainment ($rho_{119} = -.127$, $p = .170$) did not significantly correlate.

Age (rho_{121} = .224, p = .013) and Experience Years (rho_{120} = .164, p = .037) also had significant positive Spearman's rho with the P score, but again Education attainment (rho_{119} = -.101, p = .276) did not. The CFP® variable was significant positively correlated to the FAIT score (r_{141} = .258, p = .002), the N2 score (r_{121} = .185, p = .042) and the P score (r_{121} = .161, p = .036, one tailed). These correlations are reported in Table 6.11 above.

Age, Experience and the CFP® professional designation were variables that were therefore significantly related to all three ethical reasoning scores. Only Education Attainment did not significantly correlate to any of the three ethical reasoning variables.

Accordingly, hypothesis 2a (older age), was positively correlated with the FAIT, N2 and the P Scores and therefore this hypothesis was supported. Hypothesis 2b (higher tertiary education attainment), was not supported as there were no significant correlations with the FAIT, N2 or the P Scores. Hypothesis 2c (longer work experience) was positively correlated with the FAIT score, the N2 score and the P Score and therefore this hypothesis was supported. Hypothesis 2d (the CFP® professional designation) was positively correlated with all three ethical reasoning scores and therefore this hypothesis was also supported.

To determine which of the three variables was of most importance, in explaining variation in the ethical reasoning scores, OLS regressions were conducted. The OLS regressions were conducted with young age (YAge), low years of experience (LExperience) and the CFP® professional designation (CFP®) as the independent variables and the FAIT, N2 and P scores as the dependent variable in turn.

The first OLS regression was conducted with the FAIT score as the dependent variable. The multiple *R* (.405) was significantly different from zero ($F_{3,116}$ = 8.879, p < .001). In total, 16.4% (14.5% adjusted) of variation in the FAIT score was accounted for by the three independent variables (R^2 = 0.164, *adj.* R^2 = 0.145). The standardized regression coefficient (Beta) for only one of the variables, YAge (β = -.253, p =.005) was significant. The square semi-partial correlation (r_s = -.224) indicated that YAge explained 5.0 % unique variance in the FAIT score when LExperience and CFP® were accounted for.

The second OLS regression with the N2 score as the dependent variable was conducted and again the multiple *R* (.276) was significantly different from zero ($F_{3,116}$ = 3.185, p = .026). In total, 7.6% (5.2% adjusted) of the variation in the N2 score was accounted for by the three variables (R^2 = 0.076, *adj.* R^2 = 0.052). No standardized regression coefficients were significant.

The third OLS regression for the P score as the dependent variable was conducted and the multiple *R* (.285) was significantly different from zero ($F_{3,116}$ = 3.416, p = .020). In total, 8.1% (5.7% adjusted) of variation in the P score was accounted for by the three variables (R^2 = 0..081, *adj.* R^2 = 0.057). The standardized regression coefficient (Beta) for only one of the variables YAge (β = -.232 p =.024) was significant. The semi-partial correlation (r_s = -.204) when squared indicated that YAge explained 4.2% unique variance in the P score when low years of experience and CFP designation were accounted for.

This analysis suggests that YAge is the most important variable in explaining variation in both the FAIT and P scores, as it had significant standardized regression coefficients. All three OLS regressions produced significant variation in their dependent ethical reasoning variable.

6.7 Research Question 4: The Relationship between the Size of the Organisation and Cognitive Ethical Reasoning

The third hypothesis to be tested related to research question 4 and whether the size of the organisation was a situational factor affecting the ethical reasoning scores of the study's respondents. Hypothesis 3 was formulated as follows:

Hypothesis 3: That the size of the organisation will be negatively correlated with higher ethical reasoning scores.

Organisational size was measured as a dichotomous variable, with large AFS Licensees (more than 50 financial advisers) being coded as 1 and medium (10 – 49 financial advisers) and small AFS Licensees (less than 10 financial advisers) coded as 0.

As can be seen in table 6.13 below, hypothesis 3 was not supported. There were no significant correlations between organisational size and the FAIT score ($r_{111} = -.003$, $p = .974$); the N2 score ($r_{96} = .120$, $p = .246$) or the P score ($r_{96} = .057$, $p = .580$).

Table 6.13: Correlations between Commission Payments and Organisational Size with ethical reasoning scores

		1	2	3	4	5
1	FAIT	1				
2	N2Scorefin	0.90**	1			
3	PscoreFin	0.38**	0.51**	1		
4	Commission	-0.03	0.00	0.05	1	
5	Size	0.00	0.12	0.06	0.12	1

N=128-96, * $p <$ 05, ** $p < .01$

6.8 The Contextual Factors Affecting Ethical Decision-Making

6.8.1 Research question 5: Does remuneration source make a difference to cognitive ethical reasoning scores?

The fourth hypothesis to be tested related to research question 5 and whether remuneration source was a contextual factor affecting the ethical reasoning scores of the study's participants. Hypothesis 4 was formulated as follows:

Hypothesis 4: That the receipt of commission payments as a primary remuneration source will be negatively correlated to higher ethical reasoning scores, when compared with the receipt of salary or fee.

Table 6.13 above displays the statistical relationships between the three ethical reasoning scores against the contextual dimension of remuneration source (denoted as Commission).

As explained in Chapter 5, for the purposes of this hypothesis, the respondents were divided into two groups, "financial planners" and "non financial planners". Only those categorised as financial planners were used in this analysis. To measure remuneration source, a dichotomous variable (Commission) was created with financial planning respondents who were primarily remunerated by commission or a combination of commission and fee being coded 1 and those that received salary and/or fee only as their remuneration source, being coded 0.

The FAIT, N2 score and the P score were treated as interval variables. Since all four variables were therefore interval, a Pearson's r correlation is the appropriate test of association between commission payments and the three ethical reasoning variables. As recorded in Table 6. 13, there was no significant Pearson's zero-order correlations between Commission and the FAIT score (r_{113} = -.026, p = .786), the N2 score (r_{98} = .004, p = .965) or the P score (r_{98} = .051, p = .615). Hypothesis 4 is therefore not supported.

6.8.2 Do compliance officers and financial planners have different cognitive ethical reasoning scores

The fifth hypothesis to be tested related again to research question 5 and whether there was any difference in the ethical reasoning scores of compliance officers and financial planners. As discussed in Chapter 4, Hypothesis 5 was formulated with three sub hypotheses as follows:

Hypothesis 5: That the role of compliance officer will be negatively correlated to high ethical reasoning scores when compared with the role of financial planner.

- **5a.** That the role of compliance officer will be negatively correlated with higher P scores when compared with the role of financial planner.
- **5b.** That the role of compliance officer will be negatively correlated with higher N2 scores when compared with the role of financial planner.
- **5c.** That the role of compliance officer will be negatively correlated with higher FAIT scores when compared with the role of financial planner.

To test this hypothesis, the sample was again divided into two groups to create a dichotomous variable with Compliance Officers (Compliance Role) being coded 1 and Financial Planners being coded 0. As illustrated in Table 6.13 above, there were significant negative correlations with Compliance Role and the three ethical reasoning variables; the FAIT score (r_{129} = -.251, p = .004), the N2 score (r_{110} = -.208, p = .029) and the P score (r_{110} = -.225, p = .018). Hypothesis 5a, 5b and 5c were therefore supported at the zero-correlation level.

Some of the reasons for this finding are revealed in a closer examination of Table 6.11 above. This table has significant negative Spearman's correlations between the Compliance Role and the ordinal variables of Experience (rho_{146} = -.245, p = .003) and Age (rho_{146} = -.373, p <.001) and a negative correlation with the dichotomous variable CFP® (r_{146} = -.271, p = .001).

To investigate further the relationship identified at the zero correlation level therefore, a partial correlation was conducted. For this purpose Age, as an ordinal variable, was made into dichotomous variable with ages 20- 39 coded as 1 and the remaining ages coded as 0. Experience was also made into a dichotomous variable with 0-10 years coded as 1 and the remaining years as 0.

The Pearson correlations are reported in Table 6.14 below. Both of these new dichotomous variables, LExperience (r_{146} = .207, p = .012) and YAge (r_{146} = .356, p <.001), were, as expected, significantly positively correlated to the dichotomous variable of Compliance Role. Compliance officers in the sample were younger and had less experience. LExperience (r_{140} = -.316, p <.001) and YAge (r_{141} = -.345, p <.001) were also both, as expected, significantly negatively correlated to the FAIT score.

Respondents in the sample who were younger and who had less experience not only had lower FAIT scores, but also had significantly lower scores on the other two ethical reasoning variables. Low experience (r_{120} = -.170, p = .032, one tailed) and young age (r_{121} = -.276, p = .002), were both significantly negatively correlated to the P score. Low experience (r_{120} = -.204, p = .025) and young age (r_{121} = -.235, p = .009), were also both significantly negatively correlated to the N2 score.

Table 6.14: Pearson Correlations: Compliance Role, FAIT score, N2 score, P score, Low Experience and Young Age.

		1	2	3	4	5	6	7
1	Compliance Role	1.00						
2	CFP	-0.27**	1.00					
3	P score	-0.23*	0.16	1.00				
4	N2Score	-0.21*	0.18*	0.51**	1.00			
5	FAIT	-0.25**	0.26**	0.39**	0.90**	1.00		
6	Yage	0.36**	-0.33**	-0.28**	- 0.24**	-0.34**	1.00	
7	LExperience	0.21*	-0.46**	-0.17	-0.20*	-0.32**	0.47**	1.00

N=160-110, *p < 05 (2 tailed), **p < .01 (2 tailed)

Since the direction of Age and Experience were reversed when they were recoded into the dichotomous variables (Low Experience and Young Age), this is consistent with the Spearman correlations reported in Table 6.11. As Table 6.11 shows, the CFP® designation variable was significant positively correlated to the FAIT score (r_{141} = .258, p = .002) and N2 (r_{121} = .185, p = .042) but not to the P score (r_{121} = .161, p = .078).

The partial correlation initially controlled for young age. Then low years of experience and finally the CFP designation were controlled for. When YAge was controlled for, the correlation between Compliance Role and the three ethical reasoning variables; the FAIT score (r_{107} = -.168, p = .080), the N2 score (r_{107} = -.119, p = .217) and the P score (r_{107} = -.120, p = .212) were not significant at a two-tailed level. Compliance Role and the FAIT score was significant at a one-tailed level.

When LExperience was controlled for, the correlation between Compliance Role and the three ethical reasoning variables FAIT (r_{107} = -.188, p = .050), N2 (r_{107} = -.144, p = .134) and P score (r_{107} = -.192, p = .045), the FAIT score and the N2 score remained significant. When the CFP® designation was controlled for, the correlation between Compliance Role and the three ethical reasoning variables FAIT (r_{107} = -.219, p = .022), N2 (r_{107} = -.167, p = .082) and P score (r_{107} = -.191, p = .047) all remained significant.

However when both YAge and LExperience were controlled for, Compliance Role and the three ethical reasoning variables, the FAIT score (r_{106} = -.142, p = .144), the N2 score (r_{106} = -.099, p = .306) and the P score (r_{106} = -.120, p = .106) all became non-significant at the one-tailed level. This suggests that although Compliance Officers had significantly lower ethical reasoning score than Financial Advisers, this could be explained in terms of their younger age and lower levels of experience.

6.8.3 Frequency scales for the ethical climate and culture survey.

The perceptions of respondents to the ethical climate and culture of their organisation were primarily obtained from their answers to Section 3 of the main research instrument, the ethical climate and culture survey.

The individual response rates and frequency tables for all ten scales (one ethical culture and nine ethical climate scales) and 42 questions from the Ethical Climate and Culture Survey are appended to this Thesis at Appendix D.17. Table 6.15 below summarises the data from Appendix D.17 and illustrates the response rates, frequencies and reliability scores for all ten scales in section 3. The first three columns of the table refer to the ethical climate scale itself, the number of items within each scale and the question numbers used in the scale. The reliability score for each scale is indicated by the Cronbach's Alpha score in column 4, as reported previously in this thesis in section 5.7.2 of Chapter 5. The frequencies for each scale are recorded in columns five, six and seven and include the mean, median and standard deviation scores.

Column 8 contains the response rates for each scale, which ranged from a high of 149 for Scale 3 (Community) to a low of 139 for Scale 1 (Environment). As previously reported, the Cronbach's Alpha for each scale was significant. The highest reliability score was for Scale 8 (Rules and Procedure) at .89. The lowest score was for Scale 9 (Personal ethics) and Scale 1 (Environment) at .69. Six scales had Cronbach Alpha scores of >.80. The Environment Scale was the only scale where questions (Q2, 4 and 9) were reversed for coding for use in correlations and reliability scales.

Table 6.15: Distribution of frequencies for the ten scales associated with Section 3 of the main research questionnaire

Scale	No. Scale Items	Scale Q'ns	Alpha	Mean	Median	St.D	N
1. Environment	10	1-10	0.69	5.30	5.40	0.78	139
2. Employee Focus	6	11-16	0.86	5.15	5.17	1.01	144
3. Community	3	17-19	0.85	5.93	6.00	1.00	149
4. Locus of Control	4	20-23	0.86	3.83	4.00	1.56	143
5. Code Implementation	4	24-27	0.78	4.81	4.66	1.21	148
6. Situational Context	3	28-30	0.88	2.58	2.33	1.25	148
7. Efficiency	4	31-34	0.72	4.06	4.00	0.98	143
8. Rules and Procedure	2	35-36	0.8	5.94	6.00	0.76	143
9. Personal Ethics	3	37-39	0.69	6.34	6.67	0.99	144
10. Laws and Professional Conduct	3	40-42	0.83	6.23	6.33	0.87	142

***Source*: developed by the researcher**

The mean scores for the scales (using a seven point Likert scale from strongly agree at 7 to strongly disagree at 1) ranged from 6.34 for Scale 9 (Personal Ethics) to a low of 2.58 for Scale 6 (Situational Context).

The scale mean for the Environment scale was 5.30. The scale's median was 5.40 and it had a standard deviation of .78. The highest individual mean score was 5.99 for Question 9 (reversed)("Senior managers at this Licensee are models of *unethical* behaviour"), followed by Question 1 ("The management of this Licensee disciplines unethical behaviour when it occurs") at 5.81. The lowest mean score was recorded for Question 5 ("Ethical Behaviour is rewarded by this Licensee") at 4.54.

The Employee Focus scale mean was 5.15. The scale's median was 5.17 and it had a standard deviation of 1.01. The table indicates that 144 responses were received for each of the six questions in this scale. The highest mean score was 5.41 for question 11 ("I talk enthusiastically to my friends about the Licensee as it is a great organisation to belong to."), followed by a mean score of 5.37 for question 14 ("I feel very loyal to this organisation."). The lowest mean score was 4.44 for question 12 ("People are very concerned about what is generally best for this Licensee's employees").

One hundred and forty-nine responses were received for each of the three questions in the Community Focus scale. The scale mean was 5.93. The scale's median was 6.00 and it had a standard deviation of 1.00. The highest mean score was for question 18 ("People at this Licensee have a strong sense of responsibility to the outside community.") at 6.12. The lowest mean score was 5.82 for question 19 ("It is expected at this Licensee that you will always do what is right for the client and the public.").

The ethical climate scale of Locus of Control (Obedience to Authority) contained four items, questions 20 to 23. The scale mean was 3.83. The scale's median was 4.00 and it had a standard deviation of 1.56. The highest mean score was for question 21 ("People at this Licensee are expected to do as they are told.") at 4.02, followed by a mean score of 3.5 for question 22 ("The boss is always right at this Licensee.").

The Code Implementation scale contained four items. The scale mean for this sample was 4.81. The scale's median was 4.66 and it had a standard deviation of 1.21. Question 24 had the highest mean score at 5.02 ("The Licensee has established procedures for advisers to ask about its ethics requirements."), followed by a mean score of 4.78 for question 27 ("Advisers are regularly required to assert that their actions are in compliance with the Licensee's Code of Ethics."). Question 26 ("The internal Code of Ethics is widely distributed by the Licensee.") had the lowest mean of 4.66.

One hundred and forty eight responses were received for each of the three questions in the Situational Context (Self Interest) scale. The scale mean for this sample of 2.58 was the lowest mean score for any of the ethical climate scales tested. The scale's median was 2.33 and it had a standard deviation of 1.25.

The highest mean score was for question 28 at 2.71 ("At this Licensee, people protect their own interests above other considerations.") followed by a mean score of 2.70 for question 30 ("People in this organisation are very concerned about what is best for themselves.”). Question 29 had from this scale had the lowest mean of 2.38 across all ten sections (“People are expected to do anything to further the Licensee’s interests.”)

The Efficiency scale contained four items and had 143 responses. The scale mean was 4.06. The scale’s median was 4.00 and it had a standard deviation of .98. The highest mean score was recorded for question 33 at 4.68 (“Efficient solutions to problems are always sought here”). The lowest mean was recorded for question 34 at 3.30 (“The most efficient was is always the right way at this Licensee”).

The Rules and Procedures scale mean was 5.94. The scale’s median was 6.00 and it had a standard deviation of .76. Interestingly, one of the highest mean scores across all ten climate scales was recorded for question 36 (“Everyone is expected to stick by the Licensee’s rules and procedures”) at 6.02. The mean score for this scale was also positively correlated to the FAIT score.

The scale mean for the Personal Ethics scale for this sample was very high at 6.34. The scale’s median was again high at 6.67 and it had a standard deviation of .99. Again, the mean score for this scale was positively correlated to the FAIT score. The scale mean for Law and Professional Codes for the sample was 6.23. It too was positively correlated to the FAIT score. The scale’s median was 6.33 and it had a standard deviation of .76.

Table 6.16: Correlations between ethical reasoning scores and the contextual dimensions studied of ethical climate and culture

		1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	FAIT	-													
2	N2Scorefin	0.90**	-												
3	P scoreFin	0.39**	0.51**	-											
4	ASComlsum	-0.01	-0.13	-0.05	-										
5	MnEnviro	0.13	0.05	-0.07	0.29**	*.69*									
6	MnEmploy	0.01	-0.05	-0.09	0.15	0.58**	*.86*								
7	MnCommunity	0.05	-0.04	-0.05	0.20*	0.63**	0.62**	*.85*							
8	MnObediance	-0.04	0.06	0.14	0.05	-0.13	-0.12	-0.09	*.80*						
9	Mncode	0.04	0.01	-0.02	0.57**	0.47**	0.36**	0.38**	-0.08	*.86*					
10	MnSelf	-0.24**	-0.06	0.02	-0.03	-0.44**	-0.41**	-0.52**	0.34**	-0.25**	*.77*				
11	MnEffiency	-0.22*	-0.15	-0.03	0.16	-0.06	0.21**	0.04	0.35**	0.09	0.23**	*.72*			
12	MnRules	0.28**	0.10	0.09	0.15	0.33**	0.17*	0.27**	0.20*	0.26**	-0.22**	0.04	*.89*		
13	MnPersonal	0.21*	0.16	0.05	0.09	0.44**	0.40**	0.56**	-0.22**	0.30**	-0.49**	-0.04	0.26**	*.74*	
14	MnLaw	0.18*	0.12	0.08	0.22**	0.33**	0.24**	0.38**	-0.11	0.33**	-0.27**	0.05	0.48**	0.52**	*.83*

N=149-116, * < 05, ** < .01

6.8.4 Correlation Table for the contextual dimensions

Table 6.16 above is the third correlation table referred to in section 6.6.1 of this Chapter. The table displays the statistical relationships between the three ethical reasoning scores measured in this study against some of the contextual dimensions studied, namely ethical culture as represented by the Australian Standards Compliance Index (ASCI) and derived from section 2 data and the ten ethical climate and culture dimensions as measured by the data from section 3 of the main research questionnaire.

6.8.5 Research question 6A: Is there a link between ethical culture and cognitive ethical reasoning scores?

Section 2 of the main survey instrument contained questions related to the existence of ethical systems and procedures that AFS Licensees may have in place to assist with ethical decision-making.

Overall response rates and frequency tables for section 2 of the questionnaire are presented in Appendix D.16. It identifies the questions posed within the scale and the frequencies and percentage response rates for each. The mean, median and standard deviation for the Section 2 data was not calculated, given responses to each of the nine questions required a “yes”, “no” and “don’t know” response only.

Response rates ranged from 154 for question 1 (“Does your licensee have a published set of organisational values?”) and question 2 (“Does your licensee have an internal Code of Ethics?”) to a low of 147 responses for question 5 (“Are matters related to ethical standards regularly communicated to you?”)

As reported in section 5.7.2 of Chapter 5, Cronbach’s alpha was conducted on the nine item scale in Section 2, which was reliable at .785.

The sixth hypothesis to be tested related to whether there was a statistical relationship between perceptions of ethical culture within an AFS Licensee and the three ethical reasoning scores. As presented in Chapter 4, Hypothesis 6 was formulated as follows:

Hypothesis 6: That higher ethical culture scores within an AFS Licensee will be positively correlated with higher ethical reasoning scores.

6a. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher P scores.

6b. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher N2 scores.

6c. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher FAIT scores.

The two ethical culture items used in this measurement were the ASCI and the Ethical Environment scale. As Table 6.16 above demonstrates there were no significant correlations between the two scales with the ethical reasoning scores. The ASCI had non-significant correlations with the FAIT score (r_{140} = -.011, p = .902), the N2 score (r_{120} = -.133, p = .147) and the P score (r_{120} = -.049, p = .594). The Ethical Environment scale also had non-significant correlations with the FAIT score (r_{140} = .131, p = .124), the N2 score (r_{120} = .052, p = .572) and the P score (r_{120} = -.070, p = .447).

Hypotheses 6a to 6c were therefore not supported.

The correlation in Table 6.16 displays a bivariate correlation between the ASCI and the three ethical reasoning scores used for the purposes of the thesis, (the P score, the N2 score and the FAIT score). The analysis did not seem to explain any of the variance in the ethical reasoning scores and did not appear to be related to the ethical reasoning scores on its own.

To exclude a possible interaction effect, the ASCI was tested against the means of the Ethical Environment and Employee Focus scales against the FAIT score. The results indicated there was an interaction effect when all of these scores were combined. The ASCI, when combined with the means of the Ethical Environment and Employee Focus scales therefore seemed to explain some variation in the FAIT score.

The same interaction is not seen when only the ASCI score and the mean score of the Ethical Environment scale are compared to the FAIT score. This result suggests that the systems and procedures associated with the ethical culture were important factors influencing ethical decision-making within the AFS Licensees that were the subject of the study, but became more so when combined with strong scores on the Employee Focus scale.

All of the mean scores for each climate scale in Section 3 of the Questionnaire were then entered into the model. It was concluded that the ASCI, when combined with all of the mean scores for the nine ethical climate scales, significantly explained variation in the FAIT scores.

Therefore, at zero order level, ethical culture, as measured by the ASCI, against the FAIT score is significantly correlated. The ASCI is also very strongly correlated to the mean scores for the ethical climates of Environment and Employee Focus.

6.8.6 Research Question 6B: Systems and procedures used by AFS Licensees to assist with ethical decision-making

Research question 6B asked about the systems and procedures currently in place within AFS Licensees that are related to ethical culture. Table 6.17 below highlights the nine ethical cultural systems and procedures required by the Australian Standard on Fraud and Corruption (Standards Australia 2003b) measured in Section 2 of the main research questionnaire. Column three documents the percentage of respondents who positively identified their AFS Licensee as having that system. Column 4 shows the percentage of respondents who either answered “No” or “Don’t Know” to the question posed.

For the purposes of measurement, “Yes” responses to the nine questions in the section 2 survey were coded as 1 and the “Don’t Know” and ‘No” responses were coded as 2. This coding allowed the data to be converted into a dichotomous variable. This coding of the “Don’t Know” and “No” responses was justified on the basis that a “Don’t Know” response denoted a lack of knowledge by the respondent about whether the system existed or not.

Table 6.17: Response rates to Section 2 Questions on ethical culture systems and procedures within Australian Financial Services Organisations.

Quest. No.	Systems & Procedures	%Yes Responses	% No/ Don't Know Responses
1.	Internal Code of Ethics/Conduct	81.8%	11.5%
2.	Published set of organisational values	78.2%	15.2%
3.	Whistleblower policy	77.0%	12.7%
4.	Training for advisers in ethics/Decision making	73.9%	18.7%
5.	Regular communication on ethical standards	61.8%	27.3%
6.	Enforcement mechanisms/Disciplinary policy	51.5%	39.4%
7.	Reference to ethical standards in performance systems	47.9%	41.8%
8.	Regular organisational reporting on ethical matters	46.7%	44.9%
9.	Formal reward systems for ethical conduct	21.2%	71.5%

***Source*: developed by the researcher**

The data in Table 6.17 above suggests that the financial services organisations that were the subject of this survey appear to have traditional and overt ethical culture mechanisms in place, such as internal codes of ethics/conduct (81.8%); published sets of organisational values (78.2%) and adviser training in ethics (73.9%). Yet less than 50% of respondents who responded to the Section 2 questions believed their AFS Licensee referred to the ethical standards expected of staff in performance systems (Q.7 - 47.9%), had regular reporting on ethical matters within the organisation (Q.5 - 47.9%) and had implemented formal reward systems for ethical conduct (Q.9 - 21.2%).

The table therefore reflects a 60.6% range between the highest score of 81.8% for the presence of an internal Code of Ethics/ Code of Conduct (Q1) within AFS Licensees, to 21.2% for the presence of formal reward systems for ethical conduct (Q.9). 71.5% of respondents answered either "No" or "Don't Know" to the latter question. Twelve respondents chose not to answer this question.

There was also a very low "Yes" response rate of 51.5% to Question 6 (Does the Licensee have enforcement mechanisms such as a staff /adviser disciplinary policy?).

6.8.7 Research Question 7A: Perceptions of ethical climate and culture amongst financial participants

Research question 7A asked whether there were differences in the perceptions of the two respondent groups, compliance officers and financial planners, of the ethical climate within AFS Licensees.

The seventh hypothesis tested these perceptions and their statistical significance. As presented in Chapter 4, Hypothesis 7 was formulated as follows:

Hypothesis 7: That there will be statistically significant differences in the perceptions of the nine ethical climate dimensions between compliance officers and financial planners.

In particular, Hypothesis 7 proposed that there would be a statistically significant difference in the perceptions of compliance officers and financial planners concerning the presence of the following ethical climate dimensions within their organisations:

7a Employee Focus;
7b. Community;
7c. Locus of Control (Obedience to Authority);
7d. Code Implementation;
7e. Situational Context (Self Interest);
7f. Efficiency;
7g. Rules and Procedures;
7h. Personal Ethics; and
7i. Law and Professional Codes.

In hypothesis seven, differences in perceptions of ethical climate between the two roles of compliance officer and financial adviser are investigated. As has been discussed previously for hypothesis 5, for the purposes of measurement compliance officers (Compliance Role) were coded 1 and financial advisers were coded 0.

There were no significant differences between financial adviser or compliance officer role membership and the ethical climate scales of Employee Focus, Community, Locus of Control (Obedience to Authority), Code Implementation, Situational Context (Self Interest), Rules and Procedures, and the Law and Professional Codes. Accordingly, hypotheses 7(a), 7(b), 7(c), 7(d), 7(g) and 7(i) were not supported.

However, there was a significant difference between compliance officers and financial planners on the ethical climate dimensions of Self-Interest ($r_{136} = .193$, $p = .024$) and Efficiency ($r_{135} = .201$, $p = .019$) and almost significant difference on Personal Ethics ($r_{135} = -.164$, $p = .057$). Compliance officers reported higher levels of Self-Interest and Efficiency climates in their organisations but lower levels of the Personal Ethics climates. Accordingly, hypotheses 7(e) and 7(f) were supported. Hypothesis 7(h) was not supported.

In hypothesis 5, compliance officers were younger, YAge ($r_{146} = .356$, $p <.001$), and had lower years of experience, LExperience ($r_{146} = .207$, $p = .012$). While YAge did not significantly correlate with any of the nine ethical climate dimensions, LExperience did. Having less than 10 years of experience was significantly positively correlated with higher perceptions of Self-Interest ($r_{149} = .215$, $p = .008$) in the organisation and negatively correlated with perceptions of rules ($r_{143} = -.216$, $p = .009$) and Personal Ethics ($r_{147} = -.223$, $p = .007$).

In summary, hypotheses 7(a), 7(b), 7(c), 7(d), 7(g), 7(h) and 7(i) were not supported. However, there were significant differences for the Self-Interest and Efficiency climate scales between financial adviser and compliance officer respondents, with compliance officers respondents perceiving higher levels of Self-Interest and Efficiency climates within their organisations. Hypotheses 7(e) and 7(f) were therefore supported.

6.8.8 Hypothesis 8: Ethical leadership and rewarding ethical behaviour

Research question 7B enquired about the existence of statistically significant relationships between the ethical climate dimensions, cognitive ethical reasoning and ethical leadership. The eighth hypothesis to be tested related to perceptions of ethical leadership and rewards for ethical behaviour within AFS Licensees' and their affect on ethical decision-making. As discussed in Chapter 4, Hypothesis 8 was formulated as follows:

Hypothesis 8: That perceptions of high ethical leadership in an AFS Licensee will be positively correlated with perceptions of higher levels of the ethical climate dimensions Community Focus; Employee Commitment and Law and Professional Codes.

High ethical leadership in an organisation was measured using questions drawn from the section 3A Ethical Environment scale. The ethical leadership scale items are identified in Table 6.18 below. The scale was reliable with a Cronbach alpha of .725.

Table 6.18: Section 3A questions forming the Ethical Leadership Scale

The Ethical Leadership Scale	Corrected Item – Total Correlation
Q1 - The management of this Licensee disciplines unethical behaviour	.540
Q7 - People of integrity are rewarded at this Licensee	.515
Q3 - The senior managers of this Licensee guide decision making in an ethical environment	.510
Q8 - Senior managers in this organisation regularly show that they care about ethics	.472
Q5 - Ethical behaviour is rewarded by this licensee	.401

Source: developed by the researcher

As demonstrated in Table 6.18 above, Ethical Leadership was positively correlated with the means of the Employee Focus climate scale (r_{151} = .618, $p < .001$); the Community climate scale (r_{149} = .574, p < .001) and the Law and Professional Code climate scale (r_{147} = .282, p = .001). Hypothesis 8 is therefore supported.

6.8.9 Hypothesis 9: Is there a link between self interest and ethical reasoning scores?

The ninth hypothesis tested related to possible links between the Self Interest or Situational Context scale and the ethical reasoning scores of respondents. As presented in Chapter 4, Hypothesis 9 was formulated as follows:

Hypothesis 9: That perceptions of a self interest climate (Situational Context) within an AFS Licensee and a higher score on organisational commitment will be negatively correlated with higher ethical reasoning scores.

9a Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher P scores.

9b Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher N2 scores.

9c Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher FAIT scores.

As outlined in Table 6.19 below, there was a negative correlation with Self Interest (the mean of the Situational Context climate scale) and the FAIT score (r_{140} = -.237, p = .005), but not with the N2 score (r_{120} = -.064, p = .489) and the P score (r_{120} = -.015, p = .869). The Employee Focus scale (used to measure organisational commitment) was not significantly correlated with any of the three ethical reasoning scores and was negatively correlated to Self Interest (r_{149} = -.412, p < .001). Therefore, hypothesis 9a and 9b were not supported.

Table 6.19: Table of Correlations between the ethical reasoning scores and Self Interest and Organisational Commitment.

		1	2	3	4	5	6
1	FAIT	-					
2	N2	0.90**	-				
3	P score	0.39**	0.51**	-			
4	Self	-0.24**	-0.06	0.02	*.77*		
5	Employ	0.01	-0.05	-0.09	-0.41**	*.86*	
6	SELF*EMP	-0.29**	-0.12	-0.08	0.88**	0.02	-

*N = 120-149; *Correlation is significant at the 0.05 level (2-tailed);**Correlation is significant at the 0.01 level (2-tailed) Cronbach's alpha coefficients are italicised and on the diagonal.*

Since the FAIT score was the only ethical reasoning score that had a significant zero-order correlation with either Self Interest or Organisational Commitment, a hierarchal regression was conducted for this ethical reasoning score as a dependent variable. As Table 6.20 below indicates, for the first step in the hierarchical regression (model 1), the multiple R (0.255) was statistically significant, R^2 = 0.065, F(2,137) = 5.111, p = 0.010. The first stage of the model explained 6.5% of the variance in FAIT scores.

Table 6.20: Hierarchical regression model summary: the FAIT scores.

Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Change Statistics				
					R Square Change	F Change	df1	df2	Sig. F Change
1	.255[a]	.065	.051	.60815	.065	4.771	2	137	.010
2	.311[b]	.097	.077	.60004	.031	4.732	1	136	.031

a. Predictors: (Constant), COMPUTE MnEmploy = MEAN(S3.B.Q11,S3.B.Q12,S3.B.Q13,S3.B.Q14,S3.B.Q15,S3.B.Q16) , COMPUTE MnSelf = MEAN(S3.F.Q28,S3.F.Q29,S3.F.Q30)

b. Predictors: (Constant), COMPUTE MnEmploy = MEAN(S3.B.Q11,S3.B.Q12,S3.B.Q13,S3.B.Q14,S3.B.Q15,S3.B.Q16) , COMPUTE MnSelf = MEAN(S3.F.Q28,S3.F.Q29,S3.F.Q30) , COMPUTE SELFEMP = MnSelf * MnEmploy

The introduction of the interaction variable, Self Interest by Organisational Commitment into the second step (model 2) of the hierarchical regression caused R^2 to change from 0.065 to 0.097. The multiple R (0.311) was statistically significant, R^2 = 0.097, F(3,136) = 4.845, p= 0.003. The R Square Change statistic and the Sig. F Change value shows that the interaction variable Self Interest by Organisational Commitment makes a significant unique contribution of 3.2% to the variance of FAIT scores after the Self Interest and Organisational Commitment are controlled for. The interaction variable Self Interest by Organisational Commitment did explain any unique variation in the N2 and P score. Hypothesis 9c was therefore supported.

6.9 Summary

Chapter 6 has presented the results of the research associated with the seven research questions and the nine hypotheses posed by this thesis.

The data associated with the quantitative analysis of consumer and regulator action against financial advisers and AFS Licensees determined in the period 2006 – 2007 and derived from decisions of Australian Courts, the FOS and ASIC over that period was presented in section 6.2 of the chapter.

It was concluded that the primary advisory services which were most at risk of unethical conduct during 2006 and 2007, were advice in relation to general investment advice, superannuation advice, financial advice related to Westpoint promissory notes and equities/shares advice.

The primary forms of unethical conduct arising from this analysis included an inadequate explanation of the risks associated with investments, a lack of independent research in relation to financial products recommended by the adviser, having no reasonable basis for the advice given and misrepresenting the features of the investment to the client.

In terms of the current ethical issues facing financial planning participants in their roles the results and analysis of the focus group session was reported in section 6.3. The top five ethical issues facing both financial planners and compliance officers, as perceived by the focus group, were documented. In addition, the focus group's perceptions about the current issues influencing ethical decision-making within financial services organizations included numerous matters that had either been raised in the literature review in Chapter 3 or were evident in the consumer complaint analysis. These matters included the conflict of interest associated with the business strategy and business structure of financial services organizations, the current focus on the process required for the provision of advice and not the adviser conduct associated with it and the corresponding pressure on financial advisers to balance the provision of advice in the client's interests with the sale of financial products.

The descriptive statistics of the main research questionnaire, response rates and frequencies for each of the four distinct surveys contained therein were also outlined in this Chapter.

The Chapter identified individual and contextual factors that may be influencing the ethical decision-making of financial planners and financial services compliance officers in the provision of financial advice to consumers in Australia. In terms of the individual factors the influencing ethical decision-making of respondents, the main findings for hypotheses 1 and 2 are summarised in Table 6.21 below.

Table 6.21: Summary of results for Hypotheses 1 and 2 and individual correlates of ethical reasoning

Hypotheses	Results
H1: That female gender will be positively related to higher ethical reasoning scores when compared to male gender.	
1a. That female gender will be positively related to higher P scores when compared with male gender.	Not supported
1b. That female gender will be positively related to higher N2 scores when compared with male gender.	Not supported
1c. That female gender will be positively related to higher FAIT scores when compared with male gender.	Supported (not supported when age and experience controlled for)
H2: That the individual attributes of age, education, experience and professional designation will all be positively correlated to higher ethical reasoning scores.	
2a. That older age will be positively correlated with higher ethical reasoning scores**.**	Supported
2b. That higher tertiary education attainment will be positively correlated with higher ethical reasoning scores**.**	Not Supported
2c. That longer work experience will be positively correlated with higher ethical reasoning scores**.**	Supported
2d. That the CFP® professional designation will be positively correlated with higher ethical reasoning scores	Supported

The results of this study indicate that gender and education attainment are not significantly related to the three cognitive ethical reasoning scores used (the FAIT score, the N2 score and the P score). However, older age, higher work experience and the holding of the CFP® designation were all positively correlated to higher ethical reasoning scores.

In addition, the results suggest that young age (20-39 years) was the most important variable in explaining variation in both the FAIT and P scores following OLS Regressions. All three OLS regressions conducted (Young Age, Low Experience and the CFP® designation) explained variation in the three ethical reasoning scores.

Research 4 asked whether a statistically significant relationship existed between the situational factor of size of the organisation and cognitive ethical reasoning. Hypothesis 3, which proposed that the agents or employees of large organisations would have lower ethical reasoning scores was not supported, as indicated in Table 6.22.

Table 6.22: Summary of results for Hypothesis 3 and the situational factor of size of the organisation

Hypotheses	Results
H3: That the size of the organisation will be negatively correlated with higher ethical reasoning scores.	Not supported

In terms of research question 5 and the contextual factors of remuneration source and role, Bigel's (1998) finding that commission payments were not positively correlated to lower ethical reasoning scores was supported by the results of hypothesis 4 to this study.

However, as presented in Table 6.23 below the results indicate that the role of compliance officer in this sample is negatively correlated to higher ethical reasoning scores when compared to the role of financial planner. This could be explained in part by compliance officer respondents being younger and less experienced than their financial planning counterparts.

Table 6.23: Summary of results for the contextual factors of remuneration source and role in Hypotheses 4 and 5

Hypotheses	Results
H4: That the receipt of commission payments as a primary remuneration source will be negatively correlated to higher ethical reasoning scores when compared with the receipt of salary or fee.	Not supported
H5: That the role of compliance officer will be negatively correlated to high ethical reasoning scores when compared to the role of financial planner	
5a. That the role of compliance officer will be negatively correlated with higher P scores when compared with the role of financial planner.	Supported
5b. That the role of compliance officer will be negatively correlated with higher N2 scores when compared with the role of financial planner.	Supported
5c. That the role of compliance officer will be negatively correlated with higher FAIT scores when compared with the role of financial planner.	Supported

The other contextual factors measured in this study included ethical culture dimensions. Research question 6 considered whether there was a statistically significant relationship between perceptions of ethical culture within financial services organisations and cognitive ethical reasoning scores. This question was addressed by hypothesis 6, but was not supported.

However, the results suggest that systems and procedures associated with ethical culture were important factors that influenced ethical decision making within the AFS Licensees associated with the respondents to this study and became more important when combined with a strong Employee Focus climate. The ASCI and the mean scores of the nine ethical climate scales also explained significant variation in the FAIT score.

Research question 7 was in two parts and asked about differences in the perceptions of the two respondent groups of the ethical climates within financial services organisations and whether there were statistically significant relationships between the ethical climate dimensions, cognitive ethical reasoning and ethical leadership. In summary, the results of hypothesis 7 indicate that there were significant differences in the perceptions of the two respondent groups for the Self-Interest and Efficiency scales, with compliance officers having higher mean scores on each scale. Hypotheses 7(e) and 7(f) were therefore supported.

In terms of hypothesis 8, Ethical Leadership was positively correlated with the means of the Employee Focus climate scale; the Community climate scale and the Law and Professional Code climate scale. Hypothesis 8 was therefore supported

The results of testing indicate that the Employee Focus scale (used to measure organisational commitment) was not significantly correlated with any of the three ethical reasoning scores and was negatively correlated to Self Interest. Therefore, hypothesis 9a and 9b were not supported. However, the interaction variable Self Interest by Organisational Commitment did explain unique variation in the N2 and P scores. Hypothesis 9c was therefore supported.

The main findings in respect of hypotheses 6 to 9 are summarised in Table 6.24 below. The results and findings of this Chapter will now be discussed in more detail in Chapter 7.

Table 6.24: Summary of results for the ethical climate and culture dimensions and Hypotheses 6 to 9

Hypotheses	**Results**
H6: That higher ethical culture scores within an AFS Licensee will be positively correlated with higher ethical reasoning scores.	
6a. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher P scores.	Not Supported
6b. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher N2 scores.	Not Supported
6c. That higher ethical culture scores within an AFS Licensee will be positively correlated with higher FAIT scores.	Not Supported
H7: That there will be statistically significant differences in the perceptions of the nine ethical climate dimensions between compliance officers and financial planners.	
7a. That there will be a statistically significant difference in the perceptions of the ethical climate dimension Employee Focus between compliance officers and financial planners.	Not Supported
7b. That there will be a statistically significant difference in the perceptions of the ethical climate dimension Community between financial planners and compliance officers.	Not Supported
7c. That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Locus of Control (Obedience to Authority) between compliance officers and financial planners.	Not Supported
7d. That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Code Implementation between compliance officers and financial planners.	Not Supported
7e. That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Situational Context (Self Interest) between compliance officers and financial planners.	Supported
7f. That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Efficiency between compliance officers and financial planners.	Supported
7g. That there will be a statistically significant difference in the perceptions of the ethical climate dimension,	Not Supported

Rules and Procedures between compliance officers and financial planners. **7h**.That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Personal Ethics between compliance officers and financial planners. **7i.** That there will be a statistically significant difference in the perceptions of the ethical climate dimension, Law and Professional Codes between compliance officers and financial planners.	 Not Supported Not Supported
H8: That perceptions of high ethical leadership in an AFS Licensee will be positively correlated with perceptions of higher levels of the ethical climate dimensions community focus, employee commitment and law and professional codes.	Supported
H9: That perceptions of a self interest climate (Situational Context) within an AFS Licensee and a higher score on organisational commitment will be negatively correlated with higher ethical reasoning scores. **9a** Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher P scores. **9b** Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher N2 scores. **9c** Participants who perceive a self interest climate within their AFS Licensee and who score highly on organisational commitment will be negatively correlated with higher FAIT scores.	 Not Supported Not Supported Supported

CHAPTER 7: DISCUSSION

If I am to defend my conduct on ethical grounds I cannot point only to the benefit it brings me. I must address myself to a larger audience. (Singer 1993, p.50).

7.1 Introduction

In chapter six, the results of the research conducted and the findings associated with the seven research questions and nine hypotheses posited by this thesis, were presented. Chapter 7 explores the main discussion points arising from these results and the patterns that have emerged across the different stages of the research, concerning the current ethical decision making of financial planners and compliance officers and the individual, situational and contextual factors that may be influencing that decision-making within Australian financial services organisations.

Research Question one required the determination of the primary types of unethical conduct by financial planners and AFS Licensees during 2006 and 2007. The outcomes of this quantitative analysis and a discussion of the patterns that emerged from this data are considered in section 7.2 of this chapter.

This is followed in section 7.3 by a case study on the financial advice given by financial planners to Australian consumers to invest in the Westpoint Group of Companies. The case study examines the unethical conduct determined from the published decisions of the external decision makers reviewed as part of this thesis; the perceptions of the focus group of the impact of the Westpoint collapse and the lessons for financial planners and AFS Licensees arising from the data.

Section 7.4 of the Chapter discusses the qualitative findings of the focus group session in response to research question 2 and compares and contrasts these findings with the quantitative analysis associated with research question 1. The purpose of this comparison is to consider whether the perceptions of the focus group participants about the current ethical issues facing them in their respective roles within financial services organizations, as explored by research question 2, correspond to the primary ethical risk areas identified by the data associated with research question 1.

Section 7.5 of the chapter examines the data related to research question 3 and the individual correlates that influenced the ethical decision making of the study's two respondent groups. This section discusses the FAIT instrument testing of the cognitive ethical reasoning of respondents and the outcomes of hypotheses 1 (correlational relationship between gender and ethical reasoning) and hypothesis 2 (correlational relationships between ethical reasoning and age, education, experience, and professional designation).

The results of testing of the correlational relationship between the situational construct of size of the organisation and the cognitive ethical reasoning of the two respondent groups (hypothesis 3) is addressed in section 7.6.

Section 7.7 of the chapter considers the data associated with research question 5. It explores the contextual factors of remuneration source (hypothesis 4) and the organizational role of the respondent (hypothesis 5) and the influence of those constructs on the ethical decision making of the respondent groups.

This is followed by a discussion of the ethical culture (research question 6) and ethical climate (research question 7) constructs in sections 7.8 and 7.9 of the Chapter respectively. These sections include an examination of the data arising from section 2 (the ASCI survey) and section 3 (the Ethical Climate and Culture Survey) of the main research questionnaire and related hypotheses 6 to 9.

The gaps in existing ethics frameworks within current financial planning advisory models that are suggested by the findings of this study are considered throughout the Chapter.

7.2 Research Question 1- Primary Types of Unethical Conduct in the Provision of Financial Advice

This section of the Chapter elaborates on the secondary consumer complaint data outlined in section 6.2 of Chapter 6 and the primary types of unethical conduct by financial planners and AFS Licensees in the provision of financial advice to consumers during 2006 and 2007. As no research of an equivalent nature was identified from the

Literature review, no comparison of the data from this study can be made against other studies.

Some of the areas of financial advice identified as being most at risk of unethical conduct in section 6.2 of Chapter 6, such as general investment advice (48), superannuation advice (41), financial advice related to Westpoint promissory notes (40) and equities/shares advice (22) and gearing and margin lending practices (8), broadly align to the risk areas identified in section 3.9 of Chapter 3 as being of particular concern to stakeholders. Accordingly, the quantitative data from this analysis appears to confirm the anecdotal evidence that these areas of financial advice pose specific risk to financial planners and consumers alike.

In relation to the primary types of unethical conduct by financial planners and AFS Licensees during 2006 and 2007, the data suggested that integrity issues such as misleading and deceptive conduct related to the financial product recommended (35) and the risks associated with that product (16) dominated the quantitative analysis. Integrity, as an ethical principle, was defined in chapter 2 as judgment being exercised with the objective of improving a situation (Smith, B. 2002; Guy 1990).

The misleading conduct identified took many forms; from misrepresenting to consumers the risk of loss of capital and guarantees associated with the investments, to actively promoting that the financial product has features it did not have. The data suggested that such conduct was often associated with other forms of unethical conduct such as not acting in the interests of clients and failing to provide the client with all information necessary to make informed decisions as to investment choices (22).

An analysis of the data further revealed that the misleading conduct was linked to an inadequate understanding by financial planners of the financial product itself (23), which is also indicative of a breach of the Competency principle. The misleading conduct also appears to have been contributed to by a failure of the compliance systems and procedures of AFS Licensees to specifically prevent the behaviour (13).

Another pattern identified in the ASIC banning order data in particular was that misleading and deceptive conduct and the appropriation of client funds were also associated with conduct such as falsifying documents and signatures and/or discretionary dealing in financial products without the consent of the client. These matters should have been identified by the AFS Licensee's compliance systems and procedures.

If, as suggested by the theory (Martin & Cullen 2006), an organisation's ethical climate helps to determine what advisers believe constitutes ethical behavior at work and what criteria they should use to resolve ethical issues, then the presence of this type of unethical conduct suggests an ethical climate based on egoism may have been prevalent in these organizations (Victor & Cullen 2001).

The ethical principle of Competency was defined in Appendix C.5 as the provision of competent financial planning services, the maintaining of the necessary knowledge and skill and to be professional, efficient and responsive in all dealings. Competency breaches such as the failure to provide adequate written advice (21) that met the client's objectives or circumstances and that had a reasonable basis (28) were prevalent in the analysis. These were surprising findings given these ethical obligations are also legal obligations that have been prescribed by law since 2004 (see Section 945A of the Act).

Diligence in the provision of financial advice was another ethical principle that was the subject of recurring breach. This unethical conduct included the failure to conduct appropriate and independent research into the financial product being recommended (23) and inadequate explanations and examination of the risks associated with particular investment choices (19). It is noted that these breaches of ethical conduct also represented a breach of the adviser's legal obligations under the Act.

One of the themes arising from the literature and discussed in section 3.9 of Chapter 3 was that the remuneration and ownership structures of Australian financial services organisations and the management of conflicts of interest associated with those structures had contributed to unethical conduct by financial advisers (ICAA 2007a, D'Aloisio 2007). Conflict of interest was ranked highly as an ethical issue identified by both management and employees as affecting Australian business (KPMG 2005).

The theory also suggested that remuneration and reward structures were contextual factors that influenced decision making within organisations (Hegarty & Sims 1978). Whilst no decision by an external decision maker analysed for the purposes of this study overtly identified that a financial planner had recommended a particular investment due to the pecuniary benefits that flowed to the planner as a result, failures to disclose fees and commissions adequately and the conflicts of interest associated with the receipt of these pecuniary benefits, were forms of unethical conduct identified by the analysis (23).

In addition, the systemic nature of some of the conduct by financial advisers across numerous clients, suggests motives other than the client's interests for recommendations made. The receipt of high commissions and benefits from third parties as a result of financial product sales and recommendations to invest in financial products associated with their AFS Licensee, whether or not it suited the interests of the client, were all practices by financial planners that were identified in this analysis.

This conduct is not in keeping with Preston's (1996) theory that members of a profession should act in ways that are consistent with duties entrusted to the professional role. In addition, the theory suggested that financial services businesses have a role to play in regulating and defining the individual responsibilities and behaviours of those they engage (Preston & Sampford 2002; Shaw 2003) which appears to be lacking in this area. The findings seems more in keeping with Ferrell, Fraedrich and Ferrell's (2002) proposition that behaving ethically is perceived by business as not being profitable.

This conduct is also inconsistent with the acceptance of responsibility by financial planners to act in the public interest (APESB 2008) and for the collective wellbeing of other stakeholders (KPMG 2005). It also runs counter to the fiduciary nature of the financial planning relationship (ICAA 2006a). Any failure to disclose pecuniary interests and relationships that may pose a threat to the provision of objective advice, or that may create a negative perception of the ability to do so, poses a reputation risk for financial planning (ICAA 2007b; Heineman 2007; Lagan 2000). This risk was recognised by the study's focus group participants.

The data also demonstrated systemic instances of unethical conduct within AFS Licensees, by a number of advisers and across a number of clients. For example, the enforceable undertakings given by Patersons Securities Limited (EU 017029204) and First Capital (EU 017029207) related to advice given to over 500 and 170 clients respectively.

Further evidence supporting this conclusion included the failure by some advisers and officers to follow internal procedures and policies (13), a failure to keep appropriate records of advice and ensure the integrity of records kept (10) and a failure of officers of the company to prevent contraventions and to protect consumers (6 instances).

It can also be concluded from this data that some unethical conduct may have arisen because of systemic failures in the ethical context within financial planning firms, as described by Denison (1996) in section 2.7.6 of Chapter 2.

It can be inferred from this evidence that the ethical leadership within these companies, as defined by Brown, Trevino and Harrison (2005) was also lacking thus reinforcing Trevino and Brown's (2004) business myth that unethical conduct is simply the result of bad apples.

These particular findings on the primary areas of financial advice subject to specific ethical risk and the primary types of unethical conduct associated with financial planning during 2006 – 2007 fills a gap in the literature in circumstances where no equivalent analysis appears to have been previously undertaken.

7.3 Westpoint as a Case Study

Having considered the primary types of unethical behavior by financial planners identified from the analysis of decisions made by Australian courts and ASIC during 2006 and 2007, this section of the Chapter contains a substantive discourse on the financial advice given by financial planners and AFS Licensees to consumers to invest in the Westpoint group of companies through promissory notes.

It has been argued in this thesis that the advice given to consumers to invest in Westpoint was a prism through which to analyse the ethical decision-making of financial planning participants at a micro level (Preston 1996, Solomon 1993) and the ethical issues facing financial planning participants in the provision of advice to clients.

Tables 6.3 and 6.4 in Chapter 6 respectively described the most common forms of unethical conduct identified from the Westpoint decisions of FOS, Australian courts and ASIC in 2006 and 2007. The primary form of unethical conduct identified from the Westpoint decisions was misleading statements made to clients about the performance; features and security of the promissory notes; the business reputations of the Westpoint group and its longevity (47). Such misleading conduct constitutes a breach of the ethical principles of integrity, fairness and objectivity outlined in Appendix C.5.

These misleading statements primarily took two forms; misstatements arising ostensibly from a lack of understanding of the investment and its features (Delmenico v Brannelly & Ors [2007] QDC 165) and statements meant to induce clients to invest (ASIC 2007e). This unethical conduct was usually associated with advice to a group of clients, not just one, as outlined in Appendices D.8 and D.9. The case of Evans v Brannelly & ors [2007] QDC 165 for example concerned six clients and the ASIC banning orders in Fung (ASIC 2007k); Humphrey (ASIC 2007j); Wade (ASIC 2007i); Lowth (ASIC 2007h) and Armstrong (ASIC 2007g), all concerned advice to numerous clients.

The data revealed a demonstrated failure in the processes adopted for the provision of financial advice to invest in Westpoint. For example, most of the decisions by external decision makers note a failure to comply with minimum legal obligations such as to understand the client's objectives or circumstances (26), to assess tolerance to risk (21) and to provide a reasonable basis for advice (31). This was coupled with a failure to adequately explain the risks associated with the investment (25) and compounded by not tailoring advice to the individual client (16).

In addition, the advice to invest in most of the cases analysed in this study was simply not suitable to the particular client (See FOS decisions numbered 17001; 16818; 16685 and 17937 in Appendix D.6). The analysis has identified that of the 25 FOS Panel decisions concerning Westpoint in 2006 and 2007, nine related to advice to self managed superannuation funds, at least five other clients were elderly and retired and three clients on low incomes were invested into Westpoint using a gearing strategy (see Appendix D.8). The speculative nature of the promissory notes and the risks associated with them made them an unsuitable investment for these types of clients.

The findings raise questions as to the process currently used by financial planners to match financial products to the needs and objectives of clients. It is also of concern that inappropriate attempts have been made by advisers to limit the scope of the advice in an attempt to avoid the legal and ethical obligations associated with the provision of holistic advice. This leaves clients with special needs at greater risk.

This study conceptualised that professional ethics concerned the resolution of ethical issues that arise because of the specialist knowledge that a financial planner attains and how this knowledge is applied for altruistic purposes (Townsend 2003). It can be inferred from the Westpoint case study that this concept is not currently being consistently applied within financial planning.

The identified conduct also seems inconsistent with the ethical ideals of kyosei and human dignity which form the basis of the Caux Roundtable Principles for business (Petrick & Quinn 1997) as described in Chapter 2 and the new social mantra that businesses should be trustworthy and avoid harming others, even if it is lawful to do so (Jackson 1995).

The discussion in Chapter 3 concerning the Westpoint collapse noted that high commissions associated with the promissory notes were one reason why advisers recommended the investments, thus breaching their ethical obligations to act objectively, honestly and with integrity. The data in Table 6.4 suggests that at the very least there was a failure to disclose all fees and commissions payable as a result of the investments to the clients (16). However, it must also be noted that the interest rates payable to investors as a result of the investment were very high, thus creating an artificial incentive for investment.

In some instances, advisers recommended that clients roll over their Westpoint investment when it matured, into another Westpoint property group investment, without conducting further due diligence on the companies or the investment (26). Some investments were rolled over only some three months before Westpoint collapsed (see FOS decisions 17085, 16823, 16662, 17602, 17123 and 17209 in Appendix D.6). This failure to conduct new research and additional diligence led to a failure by some advisers to identify that ASIC had commenced action against the Westpoint companies due to financial difficulty in repaying investments as they matured (Evans v Brannelly & ors [2006] QDC 348).

This case study fills a gap in the literature by providing a more comprehensive analysis of the patterns in unethical decision-making that occurred within financial planning firms which led to significant investor losses in the speculative Westpoint investments. The lessons from this analysis should be of value to both financial planning firms and financial planners alike in assessing changes to conduct and process that may reduce similar failures in future.

7.4 Research Question 2: The Ethical Issues Currently Facing Financial Planning Participants

Sections 7.2 and 7.3 of this chapter have developed an empirical picture of the primary types of unethical conduct in financial planning advice and the primary areas of financial advice at specific ethical risk during 2006 - 2007.

This will now be compared and contrasted with the focus group perceptions of the ethical issues they believed faced them in their respective roles within financial advisory firms and the factors they believed were currently influencing ethical decision making within those organizations.

Tables 7.1 and 7.2 below illustrate the emerging ethical themes arising from the focus group data in relation to the professional issues facing financial planning participants in the provision of advice and the contextual and business related ethical issues influencing ethical decision making within financial services organizations. Neither table presents the information in any particular order.

Table 7.1: Emerging focus group themes in relation to the professional and ethical issues facing financial planning participants in the financial advisory process.

Theme	Sub Theme	Professional Ethics Issues Associated with the Theme
Integrity	Honesty	Deceptive and misleading conduct; lying to employees and clients; the integrity of the financial advisory process and the conduct of advisers.
Integrity/ Professionalism	Client interests	The appropriateness of advice given to clients; difficulties with risk tolerance assessment; ascertaining the reasonableness of advice; ensuring appropriate investment selection and asset allocation; acting in the best interests of clients.
Objectivity/ Fairness	Conflict of Interest	Balancing the interests of the client and adviser; overcoming the bias created by remuneration structures and the ownership of financial planning firms; the impact of conflicts of interest on the ability to service clients; the tensions between meeting compliance objectives and meeting sales targets; balancing management and profit imperatives with professional obligations; the acceptance of gifts from clients and suppliers.
Integrity	Disclosure/ Informed decision making	Ensuring adequate disclosure in documents is made to the client; the complicated manner in which fees and commissions are disclosed; ensuring compliant documents; disclosing complex commercial relationships between advisory firms and product manufacturers.
Competency/ Diligence	Competency	Managing the competency levels of advisers to undertake their role; keeping up to date with an expanding legislative framework; ensuring knowledge and training of all staff; managing professional development needs with work commitments; lack of adviser diligence in meeting compliance objectives.
Professionalism	Stakeholder Perceptions	The poor external perceptions of the current quality of financial advice; equivocal internal perceptions of the compliance function; the impact of Westpoint and other market failures; inadequate communication with external and internal stakeholders.
Professionalism	The subjective nature of ethical decision making	The subjectivity of individual judgment, inconsistencies in the interpretation and definitions applied in the advice process by different individual advisers.

***Source*: developed by the researcher**

The themes recorded in Column 1 of each table represent the ethical principles schedule in Appendix C.5 against which the focus group participants were asked to match their ethical issues. The seven sub-themes recorded in column 2 have been developed from the data. A description of the issues identified by the focus group participants and attributed to each sub-theme is outlined in column 3. Where possible, the participants' own response notes have been used.

The sub-themes outlined in both tables cover a wide spectrum, from issues associated with the individual such as honesty, to contextual issues such as the influence of commercial and business links in ethical decision making and stakeholder engagement.

One inference drawn from the literature review in Chapter 2 was that professions and businesses share some ethical standards in common such as honesty (Davis 2002). The findings discussed in sections 7.2 and 7.3 of this chapter and the data illustrated in Tables 7.1 and 7.2 support the conclusion that integrity and honesty issues are common themes influencing ethical decision-making within financial services organisations.

In addition, a strong ethical context and a high degree of self control of behavior were identified as hallmarks of traditional professions in Chapter 3 (Wagner 2004; Miller 2002). The themes related to integrity and honesty across the focus group data suggest that financial planning has yet to meet this standard.

There are many synergies between the primary types of unethical conduct currently dominating financial planning advice and the themes presented in Tables 7.1 and 7.2. These synergies relate to the management of conflicts of interest and remuneration structures in particular.

The focus group perceived that there are current business and profit imperatives, including pressure to sell financial products, which have led to unresolved conflicts of interests within financial planning firms in the provision of financial advice. These perceptions seem consistent with the theories, such as Thompson's (2004) of business as profit centres and the moral hazards that exist in balancing the professional obligations of the individual decision-maker with their agency responsibilities to the organisations they represent.

Table 7.2: Emerging themes from the focus group in relation to the ethical issues associated with the conduct of financial planning businesses.

Theme	Sub Theme	Contextual and Business Issues Associated with the Theme
Objectivity	Links to Distribution networks	The ownership, structure and links between financial services organisations; the distribution of financial products through advisory divisions within larger organisations; the sales practices adopted by financial services organisations; links between product manufacturers and advisory groups.
Integrity	Business Imperatives	Profit pressures and resultant trade-offs in the quality of advice and the enforcement of conduct standards; meeting budgets versus ensuring best practice; competing business goals; the commercial settlements of client complaints at FOS; reconciling management values and objectives with professional and compliant practice; a lack of resources; significant time pressures in the advice process; the multinational nature of some financial advisory firms.
Objectivity	Remuneration Structures	The influence of volume and incentive payments and other soft dollar payments; the setting of fee and commission charges and rates; the impact of sales quotas on quality advice; the links between remuneration structures and conflict of interest; overcharging practices by the AFS Licensee.
Objectivity/ Fairness	Churning/ Switching of financial product	How to undertake an effective gap analysis; the commercial pressure to switch clients who transfer from another dealership into financial products on the new Licensee's approved product list.
Competence/ Diligence	Research and Ratings	The reliance by advisers and AFS Licensees on research houses to research financial products and the impact on advice quality; managing the risk that research committees will set appropriate approved product lists; the validity and veracity of the research conducted, balancing approved product lists and financial product variety and number.
Integrity/ Objectivity	Risk management trade offs	Obtaining balance between managing risk and allowing adviser independence; enforcement tradeoffs between disciplining advisers for unethical conduct and the achievement of commercial objectives; the commercial and professional trade-offs associated with professional indemnity insurance claims management.
Compliance	Independence	Restrictions on the independence of the compliance function; it's opinions; its ability to enforce rules and procedures across the organisation; restrictions on independence of external and internal review of compliance functions, the appropriateness and scale of compliance systems.

These perceptions are also consistent with the unethical conduct findings discussed in sections 7.2 and 7.3 of this Chapter related to non-disclosure of pecuniary interests to clients in the provision of advice.

The sub-themes in Table 7.1 concerning the subjective nature of ethical decision-making was linked by the focus group to a perceived lack of ability or will by AFS Licensees to enforce consistent behavior and adviser conduct standards across financial advisory divisions. The perception that the subjective and intangible nature of ethics makes it difficult to regulate, is, according to Francis and Armstrong (2004), a commonly held misconception.

The focus group participants also shared a sense of frustration about the lack of diligence by other advisers in following compliance procedures and the lack of accountability within firms for not doing so.

It is noted in this context that surveyed managers commonly blame unethical behavior on external influences such as pressures from supervisors (Trevino 1992) or a lack of resources or accountability by others. However, when coupled with the data derived from section 2 of the main research questionnaire that indicates that AFS Licensees do currently not have in place the breadth of systems and procedures required to ensure an effective ethical climate and culture, the focus group on these matters comments have more resonance.

If the focus group perception about the subjective nature of ethics is representative of industry views, it may stymie efforts to engender an ethical context within financial services organisations, as it is premised on an assumption that ethics is all about individual choice and cannot be influenced by contextual factors.

It is concluded from this analysis that the primary types of unethical conduct determined from the consumer complaint analysis broadly corresponded with the perceptions of the focus group participants of the ethical issues currently facing them as financial planners and compliance officers and that may be influencing ethical decision making within financial services organisations.

Further, many of the ethical issues raised in Tables 7.1 and 7.2 seem indicative of the moral hazards identified in Chapter 2 that exist for members of professions between fidelity to an organization, its directives and views on what it owes the public (Finn 2003) and the profession's duties to the public interest and the client. The analysis from this study also supports the concept of Lovisky, Trevino and Jacobs (2007) that individuals in management roles deal with ambiguous and complex ethical issues which have significant implications for numerous stakeholders.

The focus group findings fill a gap in the literature by providing a more comprehensive and in depth view of the perceptions of financial planning participants of the ethical issues facing them in a professional and commercial capacity, in the client focused service environment of financial advisory services.

7.5 Research Question 3: Individual Correlates and the Cognitive Ethical Reasoning of Financial Planning Participants

7.5.1 The Financial Advisory Issues Test

This section of the Chapter discusses the data associated with the FAIT instrument and the three cognitive ethical reasoning scores it measured. It also elaborates on the measurement of hypotheses 1 and 2. This discussion responds to research question 3 concerning the individual factors affecting the financial planning participants who took part in this study.

It has been argued in the study that financial planners require a high level of cognitive ethical reasoning to ensure their decision-making is appropriate and in the interests of clients, whilst balancing the different duties owed to the emerging financial planning profession and AFS Licensees.

As has been previously described, the FAIT instrument is a profession specific test, derived from the DIT and DIT2 instruments on moral reasoning consistent with the approach adopted by other researchers (Thorne 2000; Borenstein *et al.* 2006). The DIT and DIT 2 instruments are indicative of a taxonomy of ethical development, particularly

as they may be used to reflect post conventional thinking. In addition, they are written tests which are easily administered by an email or an online survey.
The FAIT instrument differed from the DIT and DIT2 instruments in certain ways. First, unlike the DIT 2, the FAIT consisted of four paragraph length hypothetical dilemmas, instead of five (Rest *et al.* 1999) so as to reduce the time pressures on respondents, given the length of the main research instrument. Thorne (2000) has argued it was possible to update, shorten or revise these instruments without sacrificing validity.

Secondly, the case scenarios described ethical dilemmas specific to financial planning practice and did not describe general moral dilemmas. Thirdly, the case scenarios and the 12 issues ascribed to each one were specifically created for the purposes of this thesis and have not been previously tested. This is in contrast with the DIT and DIT 2 instruments for example, whose validity have been re-evaluated through many years of test administration (Rest *et al.* 1997).

There were several measures described in the literature to test the validity of a test or measure of cognitive ethical reasoning, such as the FAIT instrument. These included whether the test was impacted by ethics education, whether the measure improved with age or education level and whether subjects showed improvement in a longitudinal study (Rest *et al.* 1997; Borenstein *et al.* 2006).

The sample size of 165 was too small to conduct a comprehensive validity check on the FAIT instrument. However, as used by Borenstein *et al.* (2006) to determine the validity of the Engineering Sciences Issues Test, several characteristics of the data points in this study were relevant to the validity of the instrument. For example, other studies have found that cognitive ethical reasoning scores in valid measures tend to be higher for older respondents and who have achieved a higher general level of education (Borenstein *et al.* 2006; Rest *et al.* 1997). In this study, correlations between the FAIT score and age were significantly different from zero suggesting a valid measure, although not so with tertiary education levels.

To test the FAIT instrument's internal consistency reliability, Cronbach's alpha was measured from the main research instrument data. The four case scenarios held together as a valid scale and Cronbach's alphas of >.7 demonstrated that the pre-conventional scores and the post conventional scores of respondents were two independent scales. The conventional scores did not hold as a scale in their own right.

These reliability scores also suggested that respondents who ranked post conventional issues highly on one scenario, were also more likely to rank post conventional issues highly on the other three scenarios. This suggested that the ethical reasoning of respondents was not changing over the four scenarios and the different topics involved. It was concluded from this analysis that the FAIT instrument was internally reliable at the level of four scenarios.

This study also developed a new score of cognitive ethical reasoning called the FAIT score, so as to create a measure that used as much of the pre-conventional and post conventional data obtained from Parts B and C of the four case scenarios as possible. This unique score was calculated by subtracting the mean of the pre-conventional scores from the mean of the post conventional scores.

Given the FAIT score had not been previously tested, this study measured all three ethical reasoning scores (the P score, the N2 score and the FAIT score) when testing hypotheses so as to ensure the validity of the measurements generated.

For hypotheses 1, 3, 4, 5 and 6 the results of testing for all three scores were consistent in the same direction. For hypothesis 2, the results of testing for all three scores were consistent in the same direction for age and experience, with the FAIT and N2 scores being significantly related to the CFP® professional designation only. Some inconsistent results between the different scores were also noted for hypothesis 9 where the FAIT score was the only score that had a zero-order correlation with either the Self Interest climate or Organisational Commitment construct. However, the interaction variable, Self Interest by Organisational Commitment, explained unique variation in the N2 and P scores.

In terms of the responses to Part A of the four case scenarios in the FAIT instrument, the findings suggested that the majority of respondents identified the most ethical response to Part A for scenarios one, two and four.

Responses to scenario three, which considered two of the ethical issues discussed in section 3.9, namely remuneration structures and gearing and margin lending advice, were more inconsistent. The results suggested that the respondents had difficulty deciding whether they were or were not entitled to three different types of fees for what was ostensibly the one financial advisory service (44.8% not entitled; 15.8% entitled; 17% undecided; 20% chose not to respond).

Further, of the four highest rankings given to the issues in Part B of scenario 3, only one was post conventional (Issue 9 – mean score of 4.32 – Was the investment viable given the fee structure?). Interestingly, post conventional issue 8 for scenario 3 (whether the fee structures impact on the profession's reputation within society) had a low mean score of 3.42. Given the significant negative publicity associated with remuneration structures highlighted in section 3.9 of Chapter 3, it was surprising that respondents did not place a higher value on issue 8 for that reason alone.

These findings tend to support the current industry spotlight on gearing and margin lending practices as a strategy to assist clients to invest in financial markets (McCormick 2009). The current round of government activity to regulate margin lending and ensure there is transparency concerning remuneration arrangements, may assist in resolving the confusion by this study's respondents as to whether it is ethically appropriate to charge numerous fees for financial services rendered and resolve the ethical dilemma of what pecuniary value to place on services provided.

However, as the findings of stages two and three of the study have shown, even when the law prescribes the disclosure of conflicts of interest associated with remuneration structures, breaches of this standard of behaviour continue to be high.

The industry literature addressed in section 3.9 of Chapter 3 suggested that recommendations by financial planners to switch client investments into financial products associated with their AFS Licensee without due reason, was a current ethical issue concerning stakeholders in the provision of financial advice to consumers. This was also raised by the focus group as a key ethical issue facing financial planning

participants. Scenario two of the FAIT instrument dealt with this issue in a superannuation context.
The responses to Part B of scenario two suggested that the study's respondents were at least aware of the ethical issues related to switching advice and rated three of the four post conventional issues very highly in terms of resolving the dilemma raised (Issue 7 – mean 4.51, Issue 10 – mean 4.21 and Issue 12 – mean 4.05).

Scenario four of the FAIT instrument raised ethical issues associated with Westpoint and the obligations that a member of a profession has in protecting the broader interests of the profession, by disclosing the unethical behaviour of colleagues. The mean scores across the 12 issues posed by Part B of the scenario were very narrow, both across and within the three moral judgement categories. The highest mean score of 4.10 was posted for conventional issue 3 (Is there also an ethical breach that should be reported to a professional body?). The lowest mean score of 1.78 was recorded for issue 11 (Will it have an adverse effect on Nicholas' relationship with the other adviser?). This suggested there was some uncertainty from the respondents as to which issues should be given more priority when resolving this type of ethical dilemma.

The development of the FAIT instrument and the FAIT score fill a gap in the literature by providing a profession specific cognitive ethical reasoning test for financial planning participants. However, it is acknowledged that more testing is necessary to confirm the validity of both the FAIT instrument and the FAIT score as valid predictors of cognitive ethical reasoning in financial planning.

It is also acknowledged that moral reasoning has been found to be lower for respondents who undertake testing using profession-specific or work related dilemmas (Weber 1996; Weber & Seber 2002). It is highly likely therefore that the work settings associated with financial planning depressed the triggers of moral judgment, thus affecting the results (Trevino, Weaver & Reynolds 2006).

7.5.2 Individual attributes and cognitive ethical reasoning scores.

It was acknowledged in Chapter 6 that the low response rate to the main research questionnaire may have led to a biased sample, but it was still a sample worth analyzing. The detailed analysis of the results of the main research questionnaire has generated the discussion presented in the rest of this Chapter.

The first level of set of correlational relationships that were explored in the study were those associated with Research Question 3 and the individual factors that affect ethical decision-making. This section of the Chapter discusses the results of the testing of the dependent variable of cognitive ethical reasoning and its relationship with the independent variables of gender, age, years of experience, professional designation and education level.

The results demonstrated that, except for gender and education level, the hypothesis model proposed for the relationships and constructs related to the individual correlates affecting cognitive ethical reasoning, was generally confirmed by the structural analysis. In particular, the correlational relationships between age, experience, professional designation and cognitive ethical reasoning were established.

In accordance with Bigel's (1998) findings, this study hypothesised that female financial planning participants would have higher cognitive ethical reasoning scores (the P score, the N2 score and the FAIT score) than their male counterparts.

In relation to gender, the results of testing indicated that was that there was no significant difference in the ethical reasoning of female and male respondents based on the P Score ($r_{pbi\ 121}$ = .003, p = .977) and the N2 score ($r_{pbi\ 121}$ = -.062, p = .501) at the level of zero-order correlation and with the FAIT score ($r_{136\ =\ -}$ .122, p = .155), once Young Age (20-39 years) and Low Experience (0 – 10 years) were controlled for.

This finding is consistent with the studies of Torjuul, Nordam and Sorlie (2005) and Trevino, Weaver and Reynolds (2006) that there are no difference between males and females in terms of their ethical decision-making and ability to identify ethical dilemmas in workplace settings. It also suggests that the FAIT instrument was not biased towards the thought processes of male respondents.

It may be that there are differences between male and female financial planning participants in how they resolve ethical dilemmas based on the theories of Gilligan

(1982) and Gatens (1995) as explored in Chapter 2, however, these theories were not explored by the FAIT.

Bigel's (1998) findings suggested that the cognitive ethical reasoning of financial planners increased with age, education level and experience. This was consistent with other studies where moral development has been strongly associated with age and education level (Trevino, Weaver & Reynolds 2006) and by the research of Hitt (1990), Jaspers (1955) and Freedman (1990). This research suggested that the age of an individual was positively related to the individual's level of integrity and that moral development continued to grow well beyond adolescence, being influenced by age and experience.

Bigel (1998) further found that CFP® designees had higher ethical reasoning scores than non designees, as defined by the P Score. As indicated in section 6.6.3 of Chapter 6, the findings of this study were that older age, longer work experience and the CFP® professional designation were all significantly related to the three ethical reasoning scores. Higher education attainment did not correlate with any of the three ethical reasoning scores.

The results also indicated that a unique variance in all three ethical reasoning scores (FAIT score = 16.4% or 14.5% adjusted, P score = 8.1% or 5.7% adjusted and N2 score = 7.6% or 5.2% adjusted) could be accounted for by age, years of experience and the CFP® professional designation, with younger age (20-39 years) being the most important variable explaining 5% unique variance in the FAIT score and 4.2% unique variance in the P score.

The findings suggested that young financial planning participants are more at risk of making unethical decisions because of low cognitive ethical reasoning and their relative inexperience. It is suggested that these individuals, when recruited, should be exposed to ethics education to increase cognitive awareness and be inducted into the ethical climate and culture of the AFS Licensee so as to reduce the risk that decision making will be aligned with those who are unethical role models.

This ethics education could incorporate training in ethical issues arising from the daily practice of financial planning advice, stakeholder engagement, organizational and interrelationships. This training could take the form of simulations to allow for discussions about unethical practices and factors impacting the ability to act ethically.

The results of the Ethical Culture Survey indicate that the ethics education program should be linked to the reporting, disciplinary and performance management systems within the organisation so as to ensure current and important messages about acceptable and unacceptable behavior are reinforced. In addition, a mentoring program or close supervision by an ethical role model or leader within the organisation also appears warranted.

These findings also highlight that the minimum competency requirements for the provision of financial advice, outlined in ASIC Regulatory Guide 146 (ASIC 2008d), should be increased to include an ethics component. This would ensure that young entrants into financial planning have had some exposure to ethics training prior to being authorised to give advice to consumers on behalf of an AFS Licensee.

New entrants to financial planning currently do not have to have undertaken an undergraduate course, where exposure to professional and business ethics concepts may occur, in order to hold themselves out as a financial planner. Bebeau (1994) has reported that extensive training in professional settings can lead to significant gains in ethical behavior within that profession.

The findings related to the CFP® professional designation were not unexpected given all CFP® designees must undertake specific ethics training in financial planning within the CFP® accreditation program (Financial Planning Standards Board 2007). This finding was also consistent with Bigel's (1998) results. However, it should be noted that the CFP® practitioners in the sample group also tended to be older and have more experience than the non CFP® designee respondents. This may have influenced the results, although this intervention effect was not tested.

The finding supports the conclusion that the attainment of a professional designation may influence the level of cognitive reasoning of financial planners. It is therefore recommended that policy makers consider this finding when setting standards for the financial planning profession.

The study's finding that education attainment did not have a significant relationship with the ethical reasoning scores seemed to run counter to the findings of other studies (Rest et al. 1999b; Abdolmohammadi & Sultan 2002). This finding may have been contributed to by the small respondent groups in each education category identified for the purposes of hypothesis testing (68 respondents having completed the Advanced Diploma and Diploma of Financial Planning and 88 respondents being undergraduate or post graduate recipients). It may also have been contributed to by the lack of a minimum undergraduate degree entry for financial planning, as would be expected of a true profession. It was assumed that those who had undergraduate or post graduate degrees for this study held those degrees in commerce or related disciplines.

However, the finding is consistent with the Borenstein *et al*. (2006) study of engineering students, which did not find a correlation between cognitive ethical reasoning scores with education attainment. As with this study, Borenstein *et al*. (2006) concluded that the young age of their sample group may have accounted for their results.

These particular findings fill a gap in the literature by providing empirical data associated with the individual determinants of the ethical decision making of Australian financial planners and compliance officers within Australian financial services organisations.

7.6 Research Question 4: Situational Factors Influencing Ethical Decision Making in the Provision of Financial Advice

This section examines the data related to the elements of research question 4. It concerns the second level of relationships explored in this study being the situational factors that influence ethical decision making and in particular whether the size of the organisation is a correlate of cognitive ethical reasoning (Trevino, Weaver & Reynolds 2006).

The results demonstrated that hypothesis 3, which tested this relationship, was not confirmed by the structural analysis.

Hypothesis 3 postulated that financial advisers from large organisations (more than 50 advisers) would have lower cognitive ethical reasoning scores than financial advisers from small or medium organisations (less than 50 advisers). This was based on Hitt's (1990) argument that the size of the organisation may be one variable affecting ethical decision-making within organisations.

The size of Australian financial services organisation was an interesting factor to consider in this study as 114 of the study's questionnaire participants or 69%, claimed they worked for a large organisation as defined by the study. The literature review suggested that the larger the organisation, the more likely that inconsistent ethical decision-making and behaviour would prevail across the organisation (Kitson & Campbell 1996; Nash 1993). In addition, some of the literature explored in Chapter 3 and the focus group data suggested that financial planners in large financial planning firms were more exposed to factors such as commercial conflicts of interest and ownership structures that increased the likelihood of unethical conduct.

It was also speculated that financial planners with lower cognitive ethical reasoning scores may be attracted to larger organisations, based on Okpara's (2002) theory that employees desire consistency between their own ethical value system and the ethical climate of their organisation.

The result of testing however did not support Hypothesis 3. There was no significant correlation between organisational size and the FAIT score ($r_{111} = -.003$, $p = .974$); the N2 score ($r_{96} = .120$, $p = .246$) or the P score ($r_{96} = .057$, $p = .580$). Accordingly, in this study the size of the organisation was not correlated with the respondents' ethical reasoning scores.

This particular finding fills a gap in the literature by extending the knowledge base regarding the situational determinants of cognitive ethical reasoning amongst financial planning participants.

7.7 Research Question 5: The Contextual Constructs of Remuneration Source and Role

7.7.1 Remuneration structures

The third level of correlational relationships that were explored in this study were those associated with the contextual factors that affect ethical decision-making. The next sections of the Chapter discuss the results of the testing of the dependent variable of cognitive ethical reasoning, its relationship with the independent variables of remuneration source and role and the influence of ethical culture and ethical climate on ethical decision-making.

Remuneration source was a factor measured in Bigel's (1997) study as a correlate of cognitive ethical reasoning. The industry and media literature in Chapter 3 identified a significant anecdotal link between commission based compensation sources and unethical behaviour (Fielding & Tyson-Chan 2005; FPA 2005b, 2006a, 2006c). Further, some empirical studies have theorised that remuneration and reward structures influence ethical behaviour and ethical decision making within organisations (Trevino, Weaver & Reynolds 2006; Hegarty & Sims 1978; Trevino & Youngblood 1990).

There is also international and national recognition that such remuneration practices may lead to unresolved conflict of interest and inappropriate or unethical advice (ASIC 2006a).

In addition, as was noted in sections 7.2 and 7.3 of this chapter, remuneration incentives, failures in disclosure of fees and commissions for advice and associated conflicts of interest were identified as key ethical issues facing focus group participants both in their professional capacity and within financial services organisations and were determined as key areas of unethical conduct in the consumer complaint analysis and the Westpoint case study.

Accordingly, hypothesis 4 posited that financial advisers who received commission payments or a combination of commission and fee as a primary part remuneration source, would have lower ethical reasoning scores than financial planners who were remunerated by salary or fee only.

The findings of this study confirm Bigel's (1998) conclusion that remuneration source has no correlational relationship with cognitive ethical reasoning, there being no significant Pearson's zero-order correlations between commission based financial planners and the FAIT score (r_{113} = -.026, p = .786), the N2 score (r_{98} = .004, p = .965) or the P score (r_{98} = .051, p = .615).

Whilst the findings of this study suggest that unethical conduct arising from remuneration sources is not related to the level of cognitive ethical reasoning of the decision-maker, it can be concluded that the patterns in unethical behaviour that are associated with remuneration structures may be influenced by other contextual factors, such as the ethical climate and culture within AFS Licensees.

This conclusion is consistent with those of numerous academics, including Jackall (1988), Pederson (1999), Thompson (2004) and Finn (2003) who have maintained that it is inevitable that corporate payment structures will place pressure on the ability of individual employees to meet conflicting professional and commercial obligations and imperatives.

The finding of no correlational relationship between cognitive ethical reasoning and remuneration source amongst the study's respondents, fills a gap in the literature by reaffirming Bigel's (1997) findings amongst U.S.A financial planners in an Australian context.

7.7.2 The influence of role on cognitive ethical reasoning scores

It was recognised in Chapter 3 that those officers responsible for compliance and in management positions within financial services organisations have a significant role to play in influencing the ethical context in which financial planning decisions are made.

This study therefore chose to examine the ethical decision-making of compliance officers to determine whether there were differences between the cognitive ethical reasoning of financial planners and those who monitored, supervised and managed their advice processes.

The fifth hypothesis in this study tested this relationship by proposing that those respondents in the role of compliance officer would have lower ethical reasoning scores when compared with those respondents in the role of financial planner.

At a zero-correlation level, compliance officer respondents had significantly lower ethical reasoning scores than their financial planning counterparts. However, when both young age and low experience were controlled for the Compliance Role and the three ethical reasoning variables, the FAIT score (r_{106} = -.142, p = .144), the N2 score (r_{106} = -.099, p = .306) and the P score (r_{106} = -.120, p = .106) all became non- significant at the one-tailed level.

These findings suggested that although compliance officers had significantly lower cognitive ethical reasoning scores than financial planner respondents, this could be explained in terms of their younger age and lower levels of experience.

Despite the proposed relational direction of the hypothesis, these findings were not unexpected for a number of reasons. First, it was consistent with the previous research that managers can in some circumstances have lower ethical reasoning scores than those at lower organisational levels in a firm (Ponemon 1993, 1992; Trevino Weaver & Reynolds, 2006).

Secondly, the FAIT instrument is a profession specific test using ethical dilemmas in financial planning and whilst the compliance officers who took part in this study supervise and work with financial planners on a daily basis, they are not necessarily trained in financial planning per se.

However, the impact of age and experience on the ethical reasoning of compliance officers has led to the conclusion that younger and inexperienced compliance officers may be at greater risk of making unethical decisions and should therefore be subjected to a rigorous induction and mentoring program to reduce the risk that this will occur. Mandatory ethics and governance training is also recommended.

These findings have other important implications for financial advisory firms. First, the theory suggested that ethical judgment and ethical reasoning of managers is important given the ambiguous and complex ethical dilemmas they must deal with which have wide ranging implications for numerous stakeholders (Loviscky, Trevino & Jacobs 2007).

This was supported by the focus group data and perceptions that compliance officers were dealing with very complex commercial dilemmas in their current roles, over and above the resolution of ethical dilemmas in financial planning advice. These perceptions included the view that compliance officers were burdened with ensuring the provision of impartial financial advice in an environment where there was:

- pecuniary incentives which compromised the objectivity of financial planners;
- pressure by management to take a softer approach to advisers who were non-compliant; and
- pressure on compliance officers to prevent advisory failures such as Westpoint, within their businesses.

Secondly, previous research has demonstrated that the ethical judgment of managers can be predictive of a wide range of ethical behaviours in organisations, such as whistleblowing and resistance to pressure from authority figures (Greenberg 2002).

This thesis has already proposed that compliance officers must have at least the equivalent ethical reasoning ability of their financial planning counterparts, together with the skills necessary to resolve ethical dilemmas associated with the provision of financial advice, if they are to become ethical role models and leaders within financial planning organisations, as mooted in section 3.5.3 of Chapter 3.

The particular finding that the role of compliance officer in this study had a zero-order correlational relationship with cognitive ethical reasoning, fills a gap in the literature by providing a more comprehensive and in depth view with regards to the influence of role on the ethical decision-making of individuals within financial services organisations.

7.8 Research Question 6: Ethical Culture as a Contextual Factor Influencing Ethical Decision Making

The results show the hypothesis model testing the contextual construct of ethical culture and its effect on ethical decision making was generally confirmed by the structural analysis. Whilst a correlational relationship between ethical culture and cognitive ethical reasoning was not established, the ASCI, when combined with all of the mean scores of the nine ethical climate scales, significantly explained variation in the FAIT scores.

Ethical culture was defined by Trevino, Butterfield and McCabe (1998) to mean the formal and informal behavioural control systems within an organisation that articulate and define the ethical conduct expected of its members.

The presence or otherwise of these systems and procedures within financial services organisations was measured by the Ethical Culture Survey in section 2 of the main research questionnaire, developed from the Australian Standard on Fraud and Corruption Control (Standards Australia 2003b).

The study anticipated that participants who perceived a strong ethical culture within their Licensee were more likely to score highly on the ethical reasoning scales. Hypothesis 6, which measured this relationship, was premised on findings of Gephart, Harrison and Trevino (2007) that the strength of ethical culture is negatively related to unethical intention and unethical behaviour in organisations. It was also based on an assumption that persons with lower ethical reasoning would be more likely to be drawn to organisations with weak ethical culture.

The findings revealed no significant correlations between the two ethical culture items used for the purposes of this study, the ASCI and the Ethical Environment scale from the Ethical Climate and Culture survey, with the three ethical reasoning scores. Hypothesis 6 was therefore not supported.

However, the results of further testing did indicate an interaction effect. The ASCI, when combined with the means of the Ethical Environment and Employee Focus scales seemed to explain some variation in the FAIT score and when combined with the mean scores for the nine ethical climate scales, significantly explained variation in the FAIT scores.

The same interaction was not seen when only the ASCI score and the mean score of the Ethical Environment scale were compared to the FAIT score. This result suggested that the systems and procedures associated with ethical culture were important factors influencing ethical decision making within the AFS Licensees that were the subject of the study, but became more so when combined with the mean scores of the ethical climate scales.

As discussed in Chapter 6, the results of the Ethical Culture Survey indicated that the financial services organisations which were the subject of this study had traditional and overt formal ethical culture mechanisms in place, such as internal codes of ethics/conduct (81.8%); published sets of organisational values (78.2%), whistleblower policy (77.0%) and adviser training in ethics (73.9%).

The question then remains: how effective are these systems and procedures in instilling the organisation's ethical values and conduct standards into every day practice? The answer may lie in whether the values and standards are communicated, reinforced and upheld. It may also depend on whether those values and standards are exercised by those in positions of authority or whether other organisational norms are allowed to send inconsistent messages.

The data from the survey seems to answer these questions in the negative. The results of the survey suggested that within the financial services organisations studied, the regular reporting of ethical matters was very low (Q.5 - 46.7%). Further, nearly 40% of respondents did not believe or did not know whether their AFS Licensee even had enforcement mechanisms, such as a staff /adviser disciplinary policy (Q.6 – 39.4% No or Don't know).

If these results are representative of a lack of enforcement mechanisms across financial services organisations, this may be compounding the ability of compliance officers to take enforcement action against unethical advisers. However, even when in place, the focus group perceived that a lack of organisational will to use enforcement mechanisms was one of the top five ethical dilemmas facing compliance managers.

The results also demonstrate that other conventional mechanisms, which may assist management and compliance officers in instilling and enforcing a strong organisational ethical culture, may be lacking within financial services organisations. This includes systems and procedures linking ethical behaviour with performance and reward systems. For example, less than 50% of respondents believed their AFS Licensee referred to the ethical standards expected of staff within its performance systems (Q.7 - 47.9%).

Further, it can be inferred from the results that formal systems for rewarding people who achieve high levels of ethical conduct within financial services organisations are lacking with 71.5% of respondents answering either “No” or “Don’t Know” to question 9, requesting information about whether these systems exist.

The theory has suggested that offering rewards for ethical behaviour does not necessarily increase that behaviour (Trevino & Youngblood 1990). However, a dearth of mechanisms for rewarding ethical conduct, whilst there are rewards for reaching pecuniary targets, may send ambiguous messages to an organisation’s staff and agents as to which behaviour is valued more highly (Wines & Hamilton 2003), with bonuses and other rewards for meeting sales and finance targets thought to adversely influence ethical decision making.

The Australian Standard on Fraud and Corruption 8001 – 2003 (Standards Australia 2003b) applies to Australian Financial Services Organisations, but is not mandatory and its application is subject to size and turnover requirements, amongst other conditions. However, ASIC Regulatory Guide 164 (ASIC 2002a) envisages that AFS Licensees should use such standards as a guide to assist them to meet licensing obligations and to promote a culture of compliance. In addition, the Australian Standard on Compliance Systems (Standards Australia 2006) expects organisations to commit to full compliance with laws, industry standards and ethical obligations. Accordingly, the finding of such low rates of compliance with the Australian standards amongst the AFS Licensees that were the subject of this study, was surprising.

This thesis predicted that the existence of formal and informal ethical frameworks, systems and procedures that clearly articulated the ethical conduct expected of members of the organisation and that provided consistency of approach to ethical decision-making would be a positive influence on ethical decision-making within financial planning organisations. This prediction was influenced by theories previously espoused by Trevino, Butterfield and McCabe (1998).

If the findings of the Ethical Culture Survey are representative of the broader financial planning industry, a significant gap currently exists between the types of formal and informal systems that are in place within financial planning firms and those that would be expected to be in place pursuant to the relevant Australian corporate standards.

It appears that significant work needs to be done within financial planning firms to put all recommended ethics frameworks in place, with a particular focus on systems and procedures related to communication and reporting of ethical matters and standards, an upgrading of performance management systems to include reference to key indicators that reward ethical conduct and citizenship and enforcement mechanisms that discipline those who engage in unethical conduct.

In addition, it is suggested that policies and procedures that review, monitor and reinforce ethics programs should be developed and adopted so as to ensure ethics frameworks are integrated with other governance, risk management and compliance systems and are effective and working appropriately.

These particular findings fill a gap in the literature by enhancing knowledge in relation to the contextual determinants of ethical conduct in financial planning organisations. The findings should also be valuable to financial services organisations in that they demonstrate the importance of formal and informal systems and procedures linked to ethical culture within organisations and their ability to influence ethical behaviour.

7.9 Research Question 7: Ethical Climate Dimensions and Financial Services Organisations

This thesis has argued that a strong ethical context (denoted by ethical climate and ethical culture) has a real and significant role to play in both positively influencing the conduct of individuals, ensuring consistency of decision-making in certain circumstances and in playing a major role in addressing specific unethical behaviour (Whitehead & Novak 2003).

Accordingly, this study sought to examine whether the contextual factor of ethical climate influenced ethical decision-making outcomes within financial planning organisations, either positively or negatively. The data for this examination was sourced primarily from the Ethical Climate and Culture Survey, adapted from Trevino, Butterfield and McCabe's (1998) original survey and contained in section 3 of the main research instrument. The Ethical Climate and Culture Survey used in this study contained one ethical culture scale and nine ethical climate scales.

All nine theoretical ethical climate dimensions articulated in Victor and Cullen's (1988) model, were recognised as being present in the financial services organisations which were the subject of the study. This is consistent with previous studies that have concluded that there is no one best or preferred ethical climate as firms can be ethical in many ways (Martin & Cullen 2006). Further, the different types of climate are also not mutually exclusive, although one is likely to dominate (Martin & Cullen 2006).

In terms of the mean scores for each ethical climate scale (based on the seven point Likert scale from strongly agree at 7 to strongly disagree at 1), a higher score demonstrated the dominance of an ethical climate and a lower score indicated that perceptions of that ethical climate within the organisation were low (Deshpande 1996; Armstrong, Kusuma & Sweeney 1999).

The highest mean score was 6.34 for scale 9 - Personal Ethics (representing the Independence climate). This was followed by scale 10 - Law and Professional Codes (mean = 6.23, representing the Law and Code or Professionalism dimension); scale 8 -

Rules and Procedures (mean = 5.94, representing the Rules dimension) and scale 3 - Community (mean = 5.93, representing the Caring dimension).

It is interesting to draw some inferences from the mean scores recorded. These different ethical climates represent a broad understanding amongst the respondents about the reasoning they are expected to use in organisational decision making and the organisation's priorities when resolving ethical dilemmas (Upchurch & Ruhand 1996),

An Independent or Personal Ethics climate focuses on allowing individual members to make decisions consistent with their own personal and moral beliefs. The Law and Code climate would require the financial services participants to comply with the codes and regulation of their profession and other externally generated standards in choosing a course of action (Armstrong, Kusuma & Sweeney 1999). In a Rules climate, there is a focus within the organisation on internal rules and standard operating procedures, which everyone is expected to follow when making decisions (Applebaum, Deguire & Lay 2005; Liu, Fellows & Ng 2004).

The results of the study suggested that the two respondent groups overall believed these three climate types prevailed in their financial services organisations. These three also represent Principled Climates, as described in Chapter 2, across the three locus of analysis – individual, local and cosmopolitan. Principled climates theoretically represent climates in which post conventional thinking dominates and have been found to be negatively related to unethical intention and unethical behaviour in organisations (Gephart, Harrison & Trevino 2007).

A Caring ethical climate, which is also indicated by the study's findings, means the financial services organisation is perceived as being focussed on team and social responsibility and what is best for everyone, including what is right for the customer and the public, when making decisions (Victor & Cullen 2001).

The scale with the lowest mean score was 2.58 for Scale 6 - Situational Context (representing a Self Interest or Instrumental climate). This score suggested that respondents rejected this climate type as being dominant within their organisations. An instrumental climate within a financial services organisation would indicate the focus for decision making is on self interest and furthering company profits (Trevino, Weaver & Reynolds 2006).

These preliminary inferences seemed inconsistent with the data from the focus group, the consumer complaint analysis and the literature review in Chapter 3. The data from these three stages of the research would have predicted a higher mean for self interest and egotistical climates, both pre-conventional dimensions. Three hypotheses, numbered seven, eight and nine, explored these relationships further.

It was expected that there would be differences in the perception of ethical climate and culture within financial services organisations between financial planners and compliance officers for a number of reasons. First, compliance managers are at the front line in terms of resourcing and handling legal, ethical and regulatory issues for their organisation each day and it was assumed that these matters would be uppermost in their thinking.

Secondly, the literature review suggested that cultural and institutional incentives that may promote or deter deviance in the general population may also have different effects on managers because they have different incentives, given their higher position in the organisation (Hoegl 2004). In addition, perceptions of ethical climate may differ across departments and employee levels because of differences in departmental tasks and stakeholder accountability (Weber, 1995).

Hypothesis 7 measured the differences between the perceptions of ethical climate and culture of financial planners and compliance officers. The findings suggested a significant difference between compliance officers and financial planners on the ethical climate dimensions of Self-Interest ($r_{136} = .193$, $p = .024$) and Efficiency ($r_{135} = .201$, $p = .019$) and an almost significant difference on Personal Ethics ($r_{135} = -.164$, $p = .057$).

Compliance officers therefore reported higher levels of Self-Interest and Efficiency climates in their organisations than financial planners, but lower levels of the Personal Ethics dimension. The high mean score for the Personal Ethics scale and the low mean score for the self interest score overall seemed therefore to be influenced by the higher number of financial advisers undertaking the survey (130 versus 35 respondents).

Younger Age and Low Experience were factors that influenced the cognitive ethical reasoning of the financial planning participants in this study. Accordingly, testing was undertaken to determine whether either variable correlated to any of the nine ethical climate dimensions. While Young Age did not significantly correlate with any of the nine dimensions, having less than 10 years of experience was significantly positively correlated with higher perceptions of Self-Interest (r_{149} = .215, p = .008) in the organisation and negatively correlated with perceptions of Rules (r_{143} = -.216, p = .009) and Personal Ethics (r_{147} = -.223, p = .007).

The results of hypothesis 7 suggested that there is a current mismatch between the perceptions of ethical climate and culture within financial services organizations of financial planners and compliance officers. This has a number of implications. First, numerous researchers (Martin & Cullen, 2006; Cullen, Parboteeah & Victor 2003) have suggested that an organisation's ethical climate helps to determine:

- what employees/advisers believe constitutes ethical behaviour at work;
- which issues employees/advisers consider to be ethically pertinent; and
- what criteria they use to understand, weigh and resolve issues.

These findings indicate that the compliance officer respondents believed ethical decision making within their financial services organisations was driven by self interest and furthering company profits. This type of climate dimension has been predicted to increase the likelihood of unethical conduct (Gephart, Harrison & Trevino 2007**).**

In contrast, the financial planner respondents perceived that the ethical climate types that prevailed within their organisations allow them to use their professional judgment and the laws, rules and codes set by the organisation and governments, when resolving ethical dilemmas in the interests of their client and broader stakeholder groups. According to Whitehead and Novak (2003) and Barnett and Vaicys (2000), these climate types should lead to more ethical behaviour as an outcome. This does not seem to correspond to the findings of this study outlined in sections 7.2. and 7.3 of this Chapter.

These gaps in compliance officer and financial planner perceptions about which ethical climate dimensions are prevalent within financial services organizations lead to a very different understanding about the organisational values that denote ethical behaviour within the business and the expectations and boundaries set by the organisation for ethical conduct and decision-making. It is suggested, consistent with the theory (Gephart, Harrison & Trevino 2007), that such differences may affect a financial planning organisation's ability to comply with its legal and ethical obligations and additionally meet stakeholder expectations of ethical conduct and corporate social responsibility.

Using Scott and Ilako's (1995) argument, this may require financial services organisations to clarify organisational values and insist on a more holistic and proactive approach to integrating compliance, governance, risk and the ethical context within the organisation, consistent with the Australian Compliance Institute's (2005) notion of "Cold Fusion". The results have suggested that broader ethical climate and culture considerations which focus on encouraging appropriate behaviours and compliant business practices and processes need to be encouraged.

The focus group findings from this study have revealed that compliance officers currently face numerous ethical issues associated with the balancing of competing interests of business profitability and the interests of the client, a perceived lack of organizational will to discipline financial planners who behave unethically and feelings of frustration that they are under-resourced and fighting a losing battle to ensure advisory failures do not occur. These findings seem consistent with the perceptions of compliance officers of the prevalent ethical climate types currently found in financial services organizations and inconsistent with the principled climate types perceived by financial planners.

Research has shown that employees desire consistency between their ethical value system and the ethical climate of their organization (Okpara 2002). Accordingly, any discrepancy between the compliance officers' internal ethical values and their perception of the ethical climate within the organisation, may result in a moral conflict and cognitive dissonance on their part, which is another undesirable outcome from the findings of Hypothesis 7.

So as to enhance the understanding of the relationship between the ethical climate and culture dimensions within this study, hypothesis 8 proposed that perceptions of ethical leadership in an AFS Licensee would be positively correlated with perceptions of higher levels of Community Focus, Employee Commitment and Law and Professional Codes climates within the organisations.

Ethical leadership was defined by Brown, Trevino and Harrison (2005) as the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships and the promotion of such conduct to followers through communication, reinforcement and decision-making.

The findings of this study revealed that ethical leadership was positively correlated with the means of all three ethical climate scales (Employee Focus, $r_{151} = .618$, $p < .001$; Community scale, $r_{149} = .574$, $p < .001$ and Law and Professional Code scale $r_{147} = .282$, $p = .001$), thus supporting hypothesis 8.

These findings are consistent with other research that has found that employee perceptions of their supervisor's ethical leadership were associated with a willingness to report problems to management (Brown, Trevino & Harrison 2005) in addition to dedication to the job and satisfaction with the supervisor. Further, because ethical leaders are seen as caring and fair, relationships are built on open communication between the leader and the follower and a follower's wish to reciprocate the leader's supportive treatment (Trevino, Weaver & Reynolds 2006).

A focus on developing and refining ethical leadership and role models within financial services organisations and particularly within financial advisory divisions seems warranted. This thesis has already proposed that compliance officers and responsible managers are logical candidates to fill those roles. It was also concluded on the basis of the consumer complaint analysis, that there have been some previous instances of failures in ethical leadership within AFS Licensees that have led to systemic unethical conduct and consumer losses.

The research also examined whether perceptions of an Instrumental climate within financial services organisations were associated with a lower level of cognitive ethical reasoning, given the emphasis within that climate type on self interest. Gephart, Harrison and Trevino (2007) had previously found that such climates increased the likelihood of unethical behaviour.

To measure these relationships, hypothesis 9 tested whether respondents who perceived a self interest climate within their AFS Licensee and who scored highly on organisational commitment, were more likely to have lower cognitive ethical reasoning scores.

The results of a hierarchical regression analysis revealed that the interaction variables Self Interest (represented by the mean of the Situational Context climate scale) by Organisational Commitment (represented by the mean of the Employee Focus scale) made a significant unique contribution of 3.2% to the variance of FAIT scores, after Self Interest and Organisational Commitment were controlled for. The interaction variable Self Interest by Organisational Commitment did not explain any unique variation in the N2 and P scores. Self Interest was also negatively correlated with the FAIT score in its own right ($r_{140} = -.237$, $p = .005$).

These findings have supported the conclusion that financial planning participants with lower cognitive ethical reasoning scores may be attracted to instrumental climates given the egoistic nature of the characteristics associated with such climates and their focus on self interest. Of concern for financial planning organisations is that such climates are positively related to unethical intentions and behaviour (Gephart, Harrison & Trevino 2007) as is lower cognitive ethical development, thus leading to a higher risk of unethical conduct occurring.

The results of Hypotheses 7, 8 and 9 fills gaps in the literature by increasing understanding of the perceptions of financial planning participants of the ethical climates associated with their financial services organizations. There has also been a contribution made to the existing knowledge base given the study's results concerning the correlational relationships between ethical climate and ethical culture with cognitive ethical reasoning and other constructs such as ethical leadership.

7.10 Summary

This Chapter has explored the main discussion points and findings as they relate to the research questions posed by the thesis and the nine hypotheses measured. It has also discussed the patterns that emerged across the different stages of the research, concerning the current ethical decision making by financial planners and compliance officers and some of the individual, situational and contextual factors that may be influencing that decision-making within Australian financial services organisations.

Some of the implications arising from these findings and the gaps in existing frameworks that can be inferred from them, have also been considered.

In terms of the consumer complaint analysis discussed in sections 7.2 and 7.3 of the chapter, whilst it is recognised that the number of cases analysed for the purposes of this study overall was small, it is argued that the data presented in this Chapter is representative of the primary types of unethical conduct exhibited by financial planners and AFS Licensees and supports some of the literature outlined in Chapter 3.

The data revealed that misleading statements and conduct was the primary form of unethical conduct identified by the three external decision makers when adjudicating on actions against financial planners and AFS Licensees during 2006 – 2007. Such conduct seemed to be associated with other forms of unethical conduct such as not acting in the interests of clients, failing to provide the client with all information necessary to make informed decisions as to investment choices or an inadequate understanding of the financial product itself. It was concluded that these breaches were contributed to by a failure of current AFS Licensee compliance systems and procedures and also suggested an ineffective ethical climate and culture.

Whilst no decision analysed overtly identified that a financial planner had recommended certain investments due to the pecuniary benefits that flowed to them as a result, failures to disclose fees and commissions adequately and the conflicts of interest associated with the provision of advice, were forms of unethical conduct identified by the analysis.

The findings also suggested systemic failures in the ethical context within financial planning firms, such as the failure of advisers and officers to follow internal procedures and policies and for officers to prevent systemic unethical conduct. The Westpoint case study in particular raised questions as to the advisory processes currently used by financial planners in the provision of financial advice.

The unethical conduct determined from the consumer complaint analysis in sections 7.2 and 7.3 broadly corresponded to the perceptions of the focus group participants as to the ethical issues currently facing them as financial planners and compliance officers in their respective roles and that may be influencing ethical decision-making within financial services organizations.

These ethical issues included perceived conflicts of interest between the desire to provide appropriate advice to clients and the business, profit and time pressures within current advisory models. There was also a perception that compliance officers were hampered in their ability to discipline advisers when their performance or conduct was inadequate and prevent compliance failure from occurring.

The results of testing of the individual factors influencing ethical decision-making within financial planning firms were discussed in this Chapter, in addition to the new FAIT instrument developed to measure the cognitive ethical reasoning of the study's financial planning participants.

It has been acknowledged that more testing is necessary to confirm the validity of both the FAIT instrument and the FAIT score as a measure of cognitive ethical reasoning in financial planning. As a result, this study measured all three ethical reasoning scores when testing hypotheses, to ensure the validity of the measurements generated.

The test results suggested that young financial planning participants were more at risk of making unethical decisions because of low cognitive ethical reasoning and their relative inexperience. It is suggested that these individuals, when recruited, should be exposed to ethics education and inducted into the ethical climate and culture of the AFS Licensee to reduce the risk that decision making will be unaligned to others within the organisation and lead to unethical conduct. A mentoring program or close supervision by an ethical role model or leader within the organisation also appears warranted.

The findings on the contextual factors affecting ethical decision making within financial advisory firms have important implications. This is because of the very complex ethical issues that were identified as currently facing financial planning participants in their respective roles.

The results of the Ethical Culture Survey revealed a significant gap between the formal and informal ethical culture systems and procedures that are in place within financial planning firms and those that would be expected pursuant to the relevant Australian corporate standards. It appears that significant work needs to be done within financial planning firms to put in place all recommended frameworks.

The results of hypothesis seven suggest that there is a current mismatch between the perceptions of financial planners and compliance officers of the ethical climate and culture within financial services organisations. This gap or mismatch leads to a very different understanding about the organisational values that denote ethical behavior within the business and the expectations and boundaries set by the organization for ethical conduct and decision-making. It is suggested that such differences may affect a financial planning organisation's ability to comply with its legal and ethical obligations and additionally meet stakeholder expectations of ethical conduct and corporate social responsibility.

The results of hypothesis 8 suggest that a focus on developing and refining ethical leadership and role models within financial services organisations and particularly within financial advisory divisions seems warranted.

The findings also support the conclusion that financial planning participants with lower cognitive ethical reasoning scores may be attracted to instrumental climates, given the egoistic nature of the characteristics associated with such climates and their focus on self interest. Of concern for financial planning organisations is that such climates may lead to a higher risk of unethical conduct.

This study's findings support the view of Trevino, Weaver and Reynolds (2006) that there is great scope for financial services organisations to influence acceptable and unacceptable behaviour through the use of organisational values, ethical leadership, reward systems and other mechanisms.

8. CONCLUSION

Without ethical leadership there can be no ethical following (Francis 2000, p.13).

8.1 An Overview

Chapter 8 provides an overview of the thesis and summarizes the main findings. It considers both the academic and practical contribution the study makes to the existing knowledge base about the factors influencing the ethical decision making of financial planning participants within Australian financial services organizations, in the provision of financial advice to Australian consumers.

Further, it examines the implications of the research undertaken from a theoretical, methodological and policy perspective. The limitations of the study and an agenda for future research are also addressed.

This thesis commenced with the proposition that the topic of interest was a significant and important one. As discussed in Chapter 1 of the thesis and explored further in Chapter 3, recent public debate suggests that financial planning advice is becoming increasing relevant to the achievement of political, economic and social objectives in Australia, particularly as it relates to the accumulation of financial wealth and security for Australian citizens. There is therefore a commensurate interest in the way in which financial planning advice is delivered and the legal, ethical and professional structures that underpin it.

In a broader sense, this study has attempted to provide a greater understanding of the ethical decision making of financial planning participants within Australian financial services organisations and the effect that decision-making has on ethical behaviour. More specifically, this study has investigated the influences of individual, situational and contextual factors on the ethical decision-making of the two respondent groups, financial planners and compliance officers.

The research in this specific field of interest was justified on practical and academic grounds. From a practical perspective, one catalyst for this research was the need for a greater understanding of how financial planning participants make ethical decisions and the factors that influence it. The outcomes of conducting the research was to assist primarily in the development and implementation of ethics frameworks within Australian financial services organisations to fill current gaps (Barber 1988; Miller 2002), reduce the risk of unethical conduct in the provision of financial advice and provide an ethical foundation for the new profession of financial planning.

In addition, the research was also justified given the current public perception that despite the legal standards prescribed by the Act, financial planners are unethical and incompetent (ASIC 2003; Cooper 2008) and their remuneration and reward structures are associated with self interest (Wolthuizen 2003; ASIC 2004b; ASIC 2005h; Collins 2007b, 2007c; Harris 2007; Brinsden 2008) and not in the interests of financial planning clients.

These perceptions have been exacerbated by a spate of corporate and financial collapses in Australia involving the sale of financial products by financial advisers and others, culminating in investor losses of over $500 million dollars (the Australian Newspaper 2007).

These perceptions have also coincided with international moves to professionalise financial planning (Financial Planning Standards Board 2007; Certified Financial Planning™ Board of Standards 2008; Financial Services Authority 2007a, 2007b; Financial Planning Magazine 2004b, 2004c; Chen & Szeto 2003). This has led to heightened interest in the ethics associated with the emerging profession (Wagner 2004; Walker 2003; FPA 2008a).

This study has attempted to centre attention on the value that professional judgment and ethical decision making can bring to the resolution of the diverse, ambiguous and often complex dilemmas facing financial planning participants in the provision of advice to clients. This study has argued that the ethical framework that underpins financial planning is pivotal to the ability of the financial planner to provide a professional service and resolve these dilemmas effectively (Smith, J. 2006) whilst recognising the interests of stakeholders.

Chapter 2 of the thesis examined the existing knowledge base in the thesis topic so as to provide a more insightful view of the constructs and the relationships that were the subject of the empirical research and to identify the research gaps associated with the thesis topic.

There were several theoretical models identified from the literature that were applied in this study to explain the ethical reasoning (Kohlberg 1969; Rest 1984) and ethical decision-making of individuals (Dellaportas et al. 2005; Emanuel 1996; Loviscky, Trevino & Jacobs 2007; Northcott 1997; Trevino & Weaver 2003; O'Fallon & Butterfield 2005), and the processes by which ethical behaviour becomes normalised in organisations (Ashforth & Anand 2003; Jones 1991).

This study was also influenced by previous research which has demonstrated that ethical reasoning and ethical behaviour are positively correlated (Abdolmohammadi & Sultan 2002), with ethical reasoning in some studies explaining 10% - 15% of the variation in ethical action (Thoma 1994).

Theories associated with the proposition that ethical decision making and ethical behaviour within organisations can be predicted by a number of different constructs including individual, situational and contextual factors were also persuasive (Hofmann, Hoezl & Kirchler 2008).

These theories had resonance given this study was interested in the dynamic between the individual respondents and the organisation for which they worked, in addition to the relationship between the individual attributes of the decision maker and ethical reasoning.

This stance was consistent with the approach adopted by some researchers to move away from a sole focus on cognitive ethical reasoning as the primary construct determining ethical behaviour (Kelloway *et al.* 1999), towards a broader multi-dimensional approach to the study of ethical decision-making within businesses (Wines & Hamilton 2003). The premise that individuals within an organisation do not operate in a vacuum and that their decision-making is influenced by numerous factors, including the organisational context in which the decision was made, was embraced by this study.

This study therefore conceptualised ethical decision-making as the primary dependent variable which is influenced by three relational constructs, being the attributes of the individual, situational factors and contextual factors. This is consistent with the theories of Hofmann, Hoezl and Kirchler (2005) and others (Gephart, Harrison & Trevino 2007).

In terms of the individual attributes to be studied, based on Kohlberg's (1976) theory, this study conceptualised that the construct of cognitive ethical reasoning was a predictor of an individual's ethical decision-making and behaviour. Within this theme was the assumption that the higher the level of cognitive ethical reasoning held by a respondent, the greater their ability to make ethical decisions according to stage five and six of Kohlberg's six stages of ethical development and the more effective those decisions would be (Thorne 2000; Borenstein *et al.* 2006). Cognitive ethical reasoning was primarily treated as a dependent variable for the purposes of the study.

Although cognitive ethical reasoning and its correlates (such as age, education and gender) have been well tested for some professions (Thorne 2000; Borenstein *et al.* 2006; Bebeau 2002), this is not so of financial planners and compliance officers in an Australian context, thus creating a gap in the research for this study.

Based on Bigel's (1998) study of the cognitive ethical reasoning of U.S.A. financial planners, this study conceptualised that attributes pertaining to the individual such as their age, experience, education, professional designation and gender, may predict the individual's level of cognitive ethical reasoning. The theory suggested that cognitive ethical reasoning was strongly correlated with age and education in particular. These attributes were identified as independent variables which influenced the dependent variable.

One of the most recognised and widely used empirical measures of ethical reasoning identified from the literature review was the Defining Issues Test ("DIT"), as described by Rest (1984). This instrument is based on the cognitive moral developmental theory advanced by Kohlberg (1976). However, it incorporates more gradual shifts in the cognitive development schema and is better suited to an assessment of micro-morality issues in daily relationships (Trevino, Weaver & Reynolds 2006), as required for the purposes of this study.

This study adopted the approach taken by other researchers (Thorne 2000; Borenstein *et al.* 2006) to develop a profession specific measure of ethical reasoning using derivations of the original DIT and its revised version, the DIT 2 (Rest *et al.* 1999). The profession specific financial planning instrument developed for the purposes of this study was called the Financial Advisory Issues Test (FAIT).

Given the presence of multinational and global organisations in the financial services sector, the relationship between size of the organisation as a situational factor (Hitt 1990) and the cognitive ethical reasoning of respondents was also measured in this study.

In terms of the contextual factors that influence individual ethical decision making within organisations, four paradigms were identified from the literature for measurement:

(a) remuneration and reward structures (Hegarty and Sims 1978);
(b) ethical culture (Trevino 1998);
(c) ethical climate (Victor and Cullen 2001); and
(d) leadership and role (Van Gramberg and Menzies 2006).

The study measured whether there was a significant statistical relationship between the dependent variable of cognitive ethical reasoning and these five independent variables. The justification for their inclusion in this study follows.

The focus on these contextual characteristics arose because social psychology researchers, such as Milgram (1965), have demonstrated that ethical individuals can be pressured by a strong corporate culture to be a “team member” and follow authority figures and peers, even if the outcome is an unethical act.

It was a contention of this thesis that the ability of an AFS Licensee to influence the ethical context of its organisation may have a bearing on its ability to meet its legal obligations under the Act, to provide services in an efficient, fair and honest manner, to retain its reputation within the marketplace and to ensure quality advice is given to clients. An appropriate ethical context should also assist the AFS Licensee to embed a culture of compliance (Australian Compliance Institute 2005).

Bigel's (1998) study tested the correlational relationship between remuneration source with ethical reasoning. Whilst he found no relationship between the remuneration type of the adviser and their cognitive ethical reasoning, the current public debate about the conflicts of interest associated with remuneration structures outlined in Section 3.9.4 led to the conclusion that the relationship warranted further testing in an Australian context. This debate suggested that financial planners who primarily earned salary or charged clients fee for service would score higher ethical reasoning scores than financial planners who were primarily remunerated by commission or a combination of fee and commission.

Numerous academics including Jackall (1998), Pederson (1999), Finn (2003) and Thompson (2004) have also commented on the inevitability that corporate structures, organisational norms and payment structures place pressure on the ability of individual employees to meet conflicting professional and commercial obligations and imperatives. It was therefore expected that remuneration structures might be one contextual factor negatively influencing the ethical decision making of financial planners and compliance officers alike.

The literature review also identified that an individual's role within an organisation can affect their perceptions, attitudes and decision-making (Gephart, Harrison and Trevino 2007). These matters were of particular interest to this study, given the study utilised two different respondent groups, both of whom play different roles within financial services organisations.

Whitehead & Novak (2003) have argued that a strong ethical context (its climate and culture) has a real and significant role to play within an organisation in both positively influencing the ethical conduct of individuals, ensuring consistency of decision making in certain circumstances.

Ethical culture was therefore a key contextual factor measured in this study. The definition ascribed to ethical culture by Trevino, Butterfield and McCabe (1998) was adopted, being the formal and informal control systems within an organisation that articulate and define the ethical conduct expected of organisational members. The construct was measured through a survey which was derived from the Australian Standard on Fraud and Corruption Control (Standards Australia 2003b), that identified the presence or absence of these systems within the respondents' organisations.

This thesis measured the ethical climate of financial planning firms in Australia, using a modified version of the Ethical Climate and Culture Survey of Trevino, Butterfield and McCabe (1998) in their study of the ethical context of organisations. The investigation of the relationship between ethical climate and ethical decision making was based on the theory that different ethical climate types can be a trigger for both ethical and unethical behaviour within organisations (Whitehead & Novak 2003; Trevino, Butterfield & McCabe 1998).

The study examined the relationships between the nine different ethical climate dimensions identified from the literature (Victor & Cullen 1988) and other constructs, such as ethical leadership and employee commitment. Ethical leadership and employee commitment were chosen for study because of the literature review findings that these variables also influence ethical decision making within organisations (Van Gramberg & Menzies 2006).

The study further considered whether there were any statistically significant differences between financial planners and compliance officers in their perceptions of ethical climate dimensions within financial services organisations.

The literature review did not reveal a study of the two contextual constructs of ethical climate and ethical culture within Australian financial planning organisations. This study has attempted to fill this research gap.

The context of this study outlined in Chapter 3 of the thesis identified numerous and significant ethical, legal and regulatory risks concerned with the operation and structure of the financial planning industry that may influence the ethical behaviour of financial planning participants. These risks included the provision of advice to invest in Westpoint promissory notes; conflicts of interest associated with current remuneration structures and the complexities associated with certain areas of financial advice such as gearing and margin lending advice.

This led to a decision that this study should incorporate an empirical review of the primary types of unethical conduct by financial planners within its methodology, so as to provide this thesis with a practical illustration of the ethical conduct of financial advisers and where ethical decision-making had failed to meet an acceptable standard.

It has been argued in this thesis that the financial advice given to consumers to invest in Westpoint has provided a prism through which to discern patterns in unethical conduct and the ethical issues facing financial planning participants, in the provision of advice to clients. Accordingly, the study included a case study on Westpoint as part of its research design.

The relationships and associations among the concepts and variables studied, together with a justification for why they influenced this study and a description of the nature and direction of the relationship were examined in Chapter 4 of the thesis. The conceptual model on which the research in this study was based was also discussed in chapter 4, as were the research objectives.

Numerous assumptions were made in the conduct of this research. The first assumption was that ethical behaviour is based in part on cognitive processes. The second assumption was that management can and should influence the ethical conduct and decision-making of their employees through formal and informal mechanisms, systems and procedures. Another assumption was that financial planning participants are rational decision makers.

The general aim of this research was to improve the ethical decision-making of financial planning participants. Four general objectives were also identified. The first objective was to determine the primary types of unethical conduct of financial planners, in the provision of financial advice to consumers. This objective was converted into research question one.

The second objective was to test the perceptions of financial planners and compliance officers of the current ethical issues they face in their respective roles within financial services organisations. This objective was converted into research question two. No hypotheses were measured for research questions one and two.

The third objective was to determine the individual factors that influence the ethical decision making of financial planning participants in the provision of financial advice to Australian consumers. This objective was converted to research question three, namely to measure whether there were statistically significant relationships between the individual attributes of gender, age, education attainment, the CFP® professional designation and years of experience and the dependent variable of cognitive ethical reasoning.

This objective was also linked to three specific research objectives, being to confirm Bigel's (1998) research on the cognitive ethical reasoning of financial planners in an Australian context, to develop a profession specific test of cognitive ethical reasoning for financial planning and to predict the relationships between these individual factors and the ethical decision making of financial planners and compliance officers.

The fourth objective of the research was to determine the situational and contextual factors that influence the ethical decision making of financial planning participants. A series of research questions numbered four to seven were developed to achieve this objective.

These research questions asked whether there were statistically significant relationships:

- between the size of the organization and the cognitive ethical reasoning of the two respondent groups (research question 4);
- between the contextual factors of remuneration source and the role of the respondent with cognitive ethical reasoning (research question 5);
- between perceptions of ethical culture within financial services organizations and cognitive ethical reasoning scores (research question 6A);

The research questions further sought to determine the systems and procedures currently in place within AFS Licensees that are related to ethical culture (research question 6B); whether there were differences in perception of ethical climate between financial planners and compliance officers (research question 7A) and between the ethical climate dimensions, cognitive ethical reasoning scores and ethical leadership (research question 7B).

The research design and methodology adopted for the purposes of conducting the research were presented in Chapter 5 of the thesis. The methodology utilised a mixed methods approach, utilising both quantitative and qualitative research methods so as to achieve the thesis' objectives, generate preliminary baseline data on the ethical decision-making of financial planning participants and explore the research questions and nine hypotheses posed by the study.

To ensure it was undertaken in a sequential manner, the research was conducted in five stages. Stage one of the research involved the literature search and review. Quantitative research methods were used in stage two of the research to review relevant decisions made by three external bodies, namely the Australian courts, ASIC and the FOS, in the years 2006 and 2007, to determine the primary forms of unethical conduct by financial planning participants in the provision of financial advice. Stage two also included the collation and analysis of quantitative data related to the study's case study on financial advice given to consumers to invest in the Westpoint group of companies.

Qualitative research methods were utilised to convene a focus group in stage three of the research. The purpose of the focus group was to present a richer and more complex description of the perceptions and attitudes of the study's two respondent groups to the current ethical issues facing them in their respective roles as financial planners and compliance officers and the factors that the respondents believed may be influencing ethical decision making in their organisations.

Given this study measured the theoretical relationships between the ethical decision making of financial planning participants and numerous constructs (Abdolmohammadi & Sultan 2002), it was considered important to generate empirical data about the primary forms of unethical conduct of financial planners and their perceptions of the ethical issues faced by them in their roles so as to enhance understanding of the results from this study overall. In addition, data from stages two and three of the research design also instructed the development of the main research questionnaire and the four case scenarios used in the FAIT instrument.

The first finding concerned the areas of financial advice that were the subject of the most determinations by those external decision makers. It was inferred that these areas of financial advice constituted the main risk areas for financial planning organisations. Of the 235 decisions reviewed across the three external decision makers, the primary areas of financial advice which were the subject of these determinations were advice in relation to general investment advice, superannuation advice, financial advice related to Westpoint promissory notes and equities/shares advice.

Some of these areas of financial advice broadly aligned to the areas identified from the review of industry and media literature outlined in section 3.9 of Chapter 3, as being of particular concern to stakeholders. Hence the data from this study seemed to confirm the anecdotal evidence that these areas of advice posed specific ethical risk.

The second finding in relation to research question one concerned the most prevalent types of unethical conduct by financial planners and AFS Licensees identified from the decisions of the three external bodies. The data demonstrated that integrity issues dominated the analysis. This included conduct such as misleading and deceptive statements as to the performance and features of the financial product recommended; the security of the investment or the business reputations of those associated with it and the risks associated with the financial product.

The unethical conduct identified in this analysis formed not only a breach of the ethical and professional behaviour expected of financial planners as outlined in section 3.4 of Chapter 3, but also constituted unlawful conduct pursuant to the provisions of the Act and the ASIC Act, as discussed in section 3.3.1 of that Chapter.

In addition, the analysis presented evidence of systemic instances of unethical conduct within AFS Licensees, by a number of advisers and across a number of clients resulting in consumer losses. This conduct included the demonstrated failure of advisers and officers to follow internal procedures and policies and a failure to keep appropriate records of advice and ensure the integrity of records kept. It was concluded from this data that some of the unethical conduct may have arisen because of failures in the ethical context and ethical leadership within financial planning firms.

There were many evident similarities between the types of unethical conduct determined from an analysis of decisions made by Australian courts and ASIC during the relevant period and the decisions made by FOS in Westpoint related matters. The primary forms of unethical conduct identified from the Westpoint decisions overall constituted breaches of the ethical principle of integrity and included misleading statements made to clients about the performance, features and security of the promissory notes, the business reputations of the Westpoint group and its longevity.

One of the current ethical issues facing financial planning participants identified from the literature and outlined in section 3.9 of Chapter 3 concerned the influence of remuneration and ownership structures of Australian financial services organisations and the management of conflicts of interest associated with those structures.

Whilst no decision analysed during the course of this study overtly identified that a financial planner had recommended certain investments due to the pecuniary benefits that flowed to them as a result, failures to adequately disclose fees and commissions and the conflicts of interest associated with the provision of financial advice were forms of unethical conduct identified by the analysis.

It is believed that the results of the consumer complaint analysis and focus group outcomes are generalisable to the two sample populations that were the subject of this study.

These patterns in unethical conduct identified from the consumer complaint analysis seemed to correspond to the findings for research question two and the ethical issues perceived by the study’s focus group participants to be currently facing them in their respective roles and influencing ethical decision making within financial services organizations.

These issues included the perceived conflicts of interest that existed for financial planners between the desire to provide appropriate advice to clients and business, profit and time pressures within current advisory models.

The aim of the nine hypotheses posed by the study for measurement was to uncover the predictors of ethical decision-making and whether direct, indirect or no statistically significant relationships existed between the different variables. The individual, situational and contextual factors were posited to be influential on ethical decision making directly.

The hypotheses were tested using data obtained quantitatively from a main research questionnaire, developed and pre-tested in stage four of the research. The questionnaire utilized a number of different research instruments developed in previous studies but modified to an Australian context.

The four sections of the main research questionnaire included a demographic survey, modified from the survey used by Bigel (1998) in his study. The ethical culture construct was operationalised by a nine item scale in section 2 of the questionnaire, derived from guidance in the Australian Standard on Fraud and Corruption Control (Standards Australia 2003b). The other ethical culture scale used in measurement was contained in the Ethical Climate and Culture Survey in section 2 of the questionnaire.

The construct of ethical climate was assessed using a survey based on the research of Trevino, Butterfield & McCabe (1998). This survey, with ten scales, representing one ethical culture and nine ethical climate scales was contained in section three of the questionnaire.

The construct of cognitive ethical reasoning was assessed by the FAIT instrument. It comprised four profession-specific case scenarios and three tasks for respondents to complete. These tasks included an answer to the ethical dilemma posed in the scenario in Part A, the rating of 12 ethical issues according to their importance to the resolution of the dilemma in Part B and the ranking of the top four issues in Part C. The FAIT instrument formed section 4 of the questionnaire.

A new score to calculate ethical reasoning scores from the FAIT instrument called the FAIT score, which used both the pre and post conventional reasoning scores of respondents, was also developed. This meant that for the purposes of this study, three different cognitive ethical reasoning scores were measured from the FAIT instrument data; the two scores originally linked to the DIT and DIT 2; the P score and the N2 score and the FAIT score.

The main research questionnaire was the subject of pre-testing by 50 participants and some changes were made to format and structure as a result. The data from the participants' responses to the pilot study was not included in the substantive data analysed from the main research questionnaire.

This study measured the construct reliability, content validity and construct validity of the different scales within the main research instrument. The construct reliability of the different scales used in this study were tested by means of Cronbach's alpha. All co-efficient alphas were at acceptable levels (Hair *et al.* 2006).

The identification and adaption of existing scales from the literature for use in the main research instrument, such as Bigel's (1998) demographic survey; Trevino, Butterfield and McCabe's (1998) ethical climate and culture scale and the DIT 2 instrument (Rest, *et al.* 1999), assisted in establishing scale purification and content validity for the purposes of this study. The results of pre-testing of the instrument assisted further in this task.

To ensure the validity of the main constructs within the research model (Malhotra 2004), it was necessary that the predicted individual relationships between dependent and independent variables were statistically significant, in the predicted direction and of a magnitude warranting further interest. The overall results indicate that the study's hypothesis model was generally confirmed by the structural analysis.

The fifth stage of the study involved the collection and analysis of the data from the responses to the main research questionnaire. It is recognized that 165 respondents to the main research questionnaire was a relatively small sample which may have caused bias, but the sample size is consistent with other research found in the literature and the results from these respondents was of appropriate size to conduct the detailed analysis which was undertaken for this part of the research.

In testing the nine hypotheses and to achieve the study's objectives, a number of different methods of data analysis were applied, including descriptive statistics, Pearson's product-moment correlation co-efficient and Spearman's correlation co-efficient.

Correlation and regression analysis were chosen as the primary methods of data analysis for the purposes of this study because they are based on linear method, depend on normality assumptions and do not test for causality (Hansen & Morrow 2003).

The testing of the first set of correlational relationships, as articulated in Hypotheses 1 and 2, explored whether there were cognitive ethical reasoning differences based on the gender, age, education level, professional designation or the experience of the individual respondents.

The results of this study indicated that gender and education attainment were not significantly related to the cognitive ethical reasoning of respondents, based on the three scores used (the FAIT score, the N2 score and the P score). However, older age (40+ years), longer work experience (more than 10 years) and the holding of the CFP® designation were all positively correlated with higher ethical reasoning scores.

In addition, all three OLS regressions conducted (young age 20-39 years, low experience 0-10 years and the CFP® designation) explained variation in the three ethical reasoning scores. In particular, the results suggest that young age (20-39 years) was the most important variable in explaining variation in both the FAIT and P scores. It was inferred from these test results that young financial planning participants were more at risk of making unethical decisions because of low cognitive ethical reasoning and their relative inexperience.

Hypothesis 3 proposed that the cognitive ethical reasoning scores of financial advisers from large organisations would be lower than the scores of financial advisers from small or medium organisations. However, the test results did not support this proposition.

These findings were inconsistent with previous findings in other studies (Hitt 1990), that size of the organisation can be a situational factor that influences ethical decision-making.

In terms of the contextual factors of remuneration source, Bigel's (1998) finding that there was no positive correlation between fee based financial planners and higher ethical reasoning scores was supported by the results of hypothesis 4. Financial planners who received commission payments as a part of their remuneration did not exhibit lower cognitive ethical reasoning scores than financial planners who were primarily remunerated by salary or fee.

This result seemed counter to the anecdotal evidence of a link between remuneration structures and unethical behaviour outlined in Chapter 3. However, it may be that this conduct is influenced by the ethical context of the financial services organisation which encourages unethical conduct in otherwise ethical persons.

Initial test results for Hypothesis 5 appeared to suggest that compliance officers had lower ethical reasoning scores than financial planners. However, as with gender, when both young age and low experience were controlled for, the Compliance Role variable and the three ethical reasoning scores all became non- significant at the one-tailed level. This suggested that the significantly lower ethical reasoning score for compliance officers could be explained in terms of their younger age and lower levels of experience when compared to the financial planning respondent group.

Other contextual factors measured in this study included ethical culture and ethical climate dimensions. Research question 6 considered whether there was a statistically significant relationship between perceptions of ethical culture within financial services organisations and cognitive ethical reasoning scores.

Hypothesis 6,which proposed that higher ethical culture scores within an AFS Licensee would be positively correlated with higher ethical reasoning scores when compared to the role of financial planner was not supported by the data. There was no evidence to suggest that respondents who perceived a strong ethical culture within their AFS

Licensee (using the ethical culture items only) had significantly higher ethical reasoning scores.

The results did suggest that the existence of systems and procedures associated with ethical culture was an important factor influencing ethical decision-making within AFS Licensees and became more important when combined with perceptions of a strong Employee Focus climate and a strong Ethical Environment. The ASCI and the mean scores of the nine ethical climate scales also explained significant variation in the FAIT score.

Given these findings it was of interest that the responses to the Ethical Culture Survey reflected a 60.6% range in scores between the presence or absence of some systems that articulate ethical culture within financial services organisations.

Research Question 7 was in two parts. It asked whether the perceptions of the two respondent groups of the ethical climates within financial services organisations differed and whether there were statistically significant relationships between the nine ethical climate dimensions measured, cognitive ethical reasoning and ethical leadership.

The results of hypothesis 7 indicated that Compliance officers reported higher levels of Self-Interest and Efficiency climates in their organisations, but lower levels of the Personal Ethics climate. Hypotheses 7(e) and 7(f) were therefore supported.

Interestingly, having less than 10 years of experience was also significantly positively correlated with higher perceptions of Self-Interest in these organisations and negatively correlated with perceptions of Rules and Personal Ethics climates. It has been previously noted that the compliance officer respondents to the survey were younger and less experienced than their financial planning counterparts.

Two hypotheses were also developed to measure the perceptions of ethical climate/culture and their interaction with other constructs. Hypothesis 8 was supported, with respondent perceptions of high ethical leadership within an AFS Licensee being significantly and positively correlated with perceptions of higher ethical climate levels of Community Focus, Employee Commitment and Law and Professional codes within the organisation.

The results of testing for hypothesis 9 indicated that the Employee Focus scale (used to measure organisational commitment) was not significantly correlated with any of the three ethical reasoning scores and was negatively correlated to Self Interest. Therefore, hypothesis 9a and 9b were not supported. However, the interaction variable Self Interest by Organisational Commitment did explain unique variation in the N2 and P scores. Hypothesis 9c was therefore supported.

These findings support the conclusion that financial planning participants with lower cognitive ethical reasoning scores may be attracted to instrumental climates given the egoistic nature of the characteristics associated with such climates and their focus on self interest.

8.2 Contribution of the Thesis

There are two types of contribution made by this thesis. One contribution is to the existing academic knowledge base and the other is a practical contribution to numerous areas of public debate concerning the professionalization of financial planning and the ethical context that forms the foundation of that emerging profession in the provision of financial advice to Australian consumers.

An academic contribution has been made by the research in that it has determined the primary types of unethical conduct associated with the provision of financial planning advice and the areas of financial product advice most at risk of unethical conduct during 2006 and 2007. This analysis fills a gap in the literature in circumstances where no equivalent analysis appears to have been undertaken previously.

This contribution is enhanced by the development of a case study on the collapse of the Westpoint Group of companies and an analysis of the patterns in unethical decision making by financial advisers that led, in part, to significant investor losses in Westpoint property investments.

This case study fills a gap in the literature by providing a more comprehensive analysis of the patterns in unethical decision making that occurred within financial planning firms which led to significant investor losses in a speculative investment. The lessons from this analysis should be of value to both financial planning firms and financial planners alike in assessing changes to conduct and process, so as to avoid similar failures in future.

These achievements also provide an additional practical contribution to the ability of financial services organisations and financial planning practitioners to understand the factors influencing the ethical decision making of their advisory divisions and lead them to more appropriately identify and manage the ethical risks associated with the provision of financial advice to consumers through the suggested integration governance, risk management and compliance systems.

The focus group findings contribute to academic knowledge and fill a gap in the literature by providing a more comprehensive and in depth view of the perceptions of financial planning participants of the ethical issues facing them in a professional and commercial capacity in the client focused service environment of financial advisory services.

The study also makes a significant contribution to the existing academic knowledge base on the ethical decision making of financial planning participants and the individual, situational and contextual factors that influence it.

In particular, it makes a specific contribution to knowledge related to the cognitive ethical reasoning of Australian financial planning participants and the relationship between this reasoning and other individual attributes of the individual decision maker such as age, gender, education levels, experience and professional designation.

It has identified in particular that age, experience and the attainment of the CFP® professional designation, influenced the cognitive ethical reasoning scores of the participants. This reaffirms previous research findings from Bigel's (1998) study.

The thesis also contributes to this area of academic knowledge through the development of a profession specific instrument to measure the cognitive ethical reasoning of financial planning participants called the FAIT instrument and its unique ethical reasoning score, the FAIT score. Whilst other profession specific instruments have been developed for other professions, such as accountants (Thorne 2000) and engineers (Borenstein *et al.* 2006), no such test was found in the literature for financial planners.

A contribution has also been made to the knowledge associated with professional ethics and in particular, the professionalization of financial planning and the gaps that currently exist in the development of a strong and uniform ethical context, for financial planning which would usually be associated with a traditional profession.

A further contribution has been made to the knowledge base related to business and management ethics, through the exploration of the contextual factors that affect ethical decision making of participants within financial services organisations.

The finding related to the existence of a correlational relationship between cognitive ethical reasoning and remuneration source fill a gap in the literature by reaffirming Bigel's (1998) findings amongst U.S.A financial planners in an Australian context. The particular finding that the role of compliance officer has a zero-order correlational relationship with cognitive ethical reasoning fills another gap by providing a more comprehensive view with regards to the influence of role on the ethical decision making of individuals within financial services organisations.

The thesis has enhanced knowledge in its field of interest by generating empirical qualitative data of the attitudes and perceptions of financial planning participants to the ethical climate and culture within Australian financial services organisations.

The influence of ethical culture on ethical decision making within these organisations has been supported by the findings of this study, which contribute to the existing knowledge base by demonstrating the importance of formal and informal systems and procedures linked to ethical culture within organisations and their ability to influence ethical behavior.

The findings of this study that ethical leadership is another important factor in influencing ethical decision making and that financial planning participants with lower cognitive ethical reasoning scores may be attracted to instrumental climates, also contributes to the existing academic knowledge base about the statistical relationships between contextual factors and ethical decision making.

The study makes a practical contribution to the current public policy debates on the regulatory model for the financial services industry and financial planners and its remuneration structures.

The present study should also be valuable to financial planning practitioners and AFS Licensees in the following ways. The study contributes to the knowledge base from which undergraduate and continuing professional development programs in ethics and ethical decision-making for financial planners can be developed.

It is also hoped that the study assists financial services organisations in their understanding of the contextual factors that influence the ethical decision making of their advisory divisions and lead to them more appropriately identifying and managing the ethical risks associated with the provision of financial advice to consumers.

The study has also identified gaps in existing ethics frameworks for financial services organisations and suggests that to fill these gaps financial planning organisations must move away from the current focus on legal compliance frameworks and implement systems and procedures that ensure ethical decision making and the organisations ethical context is consistent with the expectations of stakeholder groups.

8.3 Implications of the Research

8.3.1 Theoretical Implications

This study developed a mixed methods research methodology that could be applied to the subject matter of the thesis. The research was a non-contrived, cross sectional study, with minimal researcher interference. The purpose of the study was primarily hypothesis testing so as to explain the nature of the relationships between the different constructs. To the extent that the study was interested to delineate the individual, situational and contextual variables associated with ethical decision-making, it can be described as a correlational study.

This was also a comparative study which explored whether there were any, and if so what, differences between the two sample groups studied, namely financial planners and compliance officers, in terms of their level of cognitive ethical reasoning and their perceptions of the ethical culture and ethical climate within their financial planning firms.

This was a study that also relied on data from a number of survey and research instruments to overcome the associated methods bias problems with the use of a single survey. As noted previously, where possible, the research instruments used in this study have been validated in previous studies. However, it is acknowledged that there are implications from adopting a methodology which contained multiple measures from different informants (Trevino, Weaver & Reynolds 2006).

As has been previously described, the FAIT instrument was a profession specific test, derived from the DIT and DIT 2 instruments on moral reasoning, but which differed in certain ways. First, the FAIT instrument used four case scenarios instead of the traditional six scenarios. Secondly, the case scenarios described ethical dilemmas specific to financial planning practice and did not describe general moral dilemmas. Further, three of the case scenarios used and the 12 issues ascribed to all four case scenarios, were specifically created for the purposes of this thesis and have not been previously tested. This is in contrast with the DIT and DIT 2 for example, whose validity have been re-evaluated through many years of test administration (Rest *et al.* 1997).

There are several measures described in the literature to test the validity of a research instrument that measures cognitive ethical reasoning, such as the FAIT instrument. These include whether the test is impacted by ethics education, whether the measure improves with age or education level and whether subjects show improvement in a longitudinal study (Rest *et al.* 1997; Borenstein *et al.* 2006).

The sample size of 165 was too small to conduct a comprehensive validity check on the FAIT instrument. However, as adopted by Borenstein *et al*. (2006) in determining the validity of the Engineering Sciences Issues Test, there were several characteristics of the data points in this study that were relevant to the validity of the FAIT instrument.

First, instrument pre-testing of the FAIT was conducted, the results of which are outlined in section 5.7.1 of Chapter 5. In addition, the results of internal construct reliability testing indicated that the four case scenarios in the instrument held together as a valid scale. Cronbach's alphas of >.7 demonstrated that the pre-conventional scores and the post conventional scores of respondents were two independent scales. The conventional scores did not hold as a scale in their own right.

These reliability scores also suggested that respondents who ranked post conventional issues highly on one scenario, were also more likely to rank post conventional issues highly on the other three scenarios. This indicated that the ethical reasoning of respondents was not changing over the four scenarios and the different topics involved. It was concluded therefore from this analysis that the FAIT instrument was internally reliable at the level of four scenarios.

Other studies have found that cognitive ethical reasoning scores in valid measures tend to be higher for respondents who are older rather than younger and who have achieved a higher general level of education (Borenstein *et al.* 2006; Rest *et al.* 1997). In this study, correlations between the FAIT score and age were significantly different from zero suggesting a valid measure, although not so with tertiary education levels.

This study also developed a new score called the FAIT score, so as to create a measure of cognitive ethical reasoning that used as much of the pre-conventional and post conventional data obtained from Parts B and C of the four case scenarios, as possible. This unique score was calculated by subtracting the mean of the pre-conventional scores from the mean of the post conventional scores.

The FAIT score is very similar to the N2 Score, as they both make use of the respondents' relative rankings of the post conventional issues in addition to the respondents' ability to rate post conventional issues higher than pre-conventional issues.

The FAIT score was very strongly correlated with the N2 Score at .898. The P score, was also significantly correlated with the FAIT score at .391, although not as strongly as the correlation with the N2 score. It was concluded that this may be due to the two scores measuring different data. The P score only considers the ranking data of each respondent and not the ratings data.

The FAIT score seemed to provide a number of advantages relevant to this study. First, it tended to be more parsimonious, easier to calculate and to use. Secondly, the FAIT score seemed to be more sensitive in relation to this particular test, in revealing information about the data that due to the small sample size for this study, both the P score and the N2 score seemed to struggle with.

However, it is acknowledged that additional testing is necessary to confirm the validity of both the FAIT instrument and the FAIT score as valid predictors of the cognitive ethical reasoning of financial planning participants.

8.3.2 Policy Implications

There are many policy implications for government, ASIC, financial planning practitioners and financial services organizations arising from the findings of this study.

Many of the forms of unethical conduct revealed by this study should have been identified by the AFS Licensee’s compliance systems and procedures and are also indicative of an ineffective ethical climate and culture.

The data also suggested a demonstrated failure in advisory models and processes when advising on investments. In most of the cases analysed the advice to invest was simply not suitable to the particular client. The speculative nature and risks associated with the Westpoint promissory notes in particular made them an unsuitable investment for some types of client, such as elderly pensioners and consumers on low incomes. It is evident from the data that the current legal framework for financial product advice did not operate effectively to protect consumers in some instances.

These findings raise questions as to the process currently used by financial planners to match financial products to the needs and objectives of clients.

In addition, the financial advice analysed in stage 2 of the research was at times associated with the provision of template statements of advice and other disclosure documents not tailored to the client's specific circumstances. This one size fits all approach to the sale of financial products or strategies across client databases and inappropriate attempts to restrict the advice given so as to limit both liability and the advisory process adopted, is inconsistent with ethical and professional obligations and leads to greater risk for consumers.

The discussion in Chapter 3 concerning the Westpoint collapse noted that high commissions associated with the promissory notes were one reason why advisers recommended the investments. The data from this research suggested that at the very least there was a failure to disclose all fees and commissions payable as a result of the investments to the clients. However, it must also be noted that the interest rates payable to investors as a result of the investment were also very high, thus creating an artificial incentive for investment.

One policy implication arising from this however is that financial markets sometimes provide pecuniary incentives to both advisers and investors to invest inappropriately. It also provides an incentive for financial advisers to focus on the sale of financial products across a marketing database, rather than the provision of advice on an individual basis in the interests of a particular client.

It has been noted in this thesis that not all of those who invested in Westpoint did so on the advice of a person licensed under the Act and some of the enforcement action taken by ASIC was against unlicensed entities like Kebbel Bank (ASIC 2006e). Yet some ASIC media releases related to Westpoint referred to these unlicensed persons as "financial advisers". In addition, in some of its media releases and banning order registers, ASIC refers to undischarged bankrupts and other unauthorised persons (ASIC 2004e, 2004f) by that term.

This raises a policy implication concerning whether the terms "Financial Planner" and/or "Financial Adviser" should be the subject of statutory protection so as to avoid any confusion for consumers in identifying appropriately qualified and regulated financial advisers. It would seem there is a good argument for restricting the use of the term 'financial planner' in particular to those who are licensed or authorised to give financial advice and who meet other eligibility and competency criteria, such as those outlined for the emerging profession of financial planning in section 3.4.1.

It is argued that this action may reduce any confusion for those who seek professional financial advice as to who is licensed to give advice and who meets relevant competency standards prescribed by the Act and who does not.

The focus group participants shared a sense of frustration about the lack of diligence by advisers in following compliance procedures and the lack of accountability within the financial planning firms for not doing so. When coupled with the finding from the Ethical Culture Survey that AFS Licensees do not have in place the breadth of systems and procedures required to ensure an effective ethical culture, including disciplinary and enforcement procedures, the comments have more resonance.

The policy implication arising is that AFS Licensees may be inconsistently regulating adviser behavior internally. It is suggested that there needs to be more emphasis on individual accountability for unethical conduct.

A lack of enforcement and disciplinary mechanisms may also be compounding the ability of compliance officers to take enforcement action against unethical advisers. Yet, even when in place, the focus group perceived that a lack of will to use them was one of the top five ethical issues facing compliance managers.

It can be inferred from the research that the competency standards for financial planners are inadequate to equip them with the significant skills they require to provide financial advice in the complex financial services environment. The research has also revealed that younger financial planners (less than 40 years of age) have lower cognitive ethical reasoning levels and are therefore at increased risk of making unethical decisions.

In addition to the introduction of formal ethics training in specific financial planning undergraduate degrees, the findings of this study also suggest that there should be a specific focus on continuing professional development programs in ethics and ethical decision-making.

It is also suggested that financial planners, when recruited, should be exposed to ethics education and inducted into the ethical climate and culture of the AFS Licensee to reduce the risk that decision making will be unaligned to others within the organisation.

It can be concluded from the results of testing of Hypothesis 2 that accreditation to professional designations, such as the CFP® practitioner designation, while not a panacea for all unethical conduct, may add a level of individual accountability for ethical conduct that the law does not and should be encouraged amongst financial advisers. Access to such designations also usually requires exposure to ethics training and continuing professional development in ethics and decision making.

As previously noted, the research indicated that AFS Licensees may not be implementing formal and informal systems and procedures within their organisations that promote ethical culture and integrate governance, risk management, compliance and ethics frameworks. Evidence associated with the recent financial product and service provider collapses also suggested that current legal compliance frameworks alone may not be sufficient to reduce or prevent systemic unethical conduct within financial advisory firms.

To reduce this gap it is suggested that initiatives such as a specific legal requirement to meet Australian Standards on corporate governance may be the key to a new and invigorated approach to decision making and governance frameworks in financial services.

The results of this study have supported the proposition that AFS Licensees should be encouraged to establish mentoring programs for financial advisers and identify ethical role models and leaders within their organisations. It can be inferred from the study's findings that gaps in ethical leadership may have contributed to the systemic ethical conduct and consumer losses associated with the recent financial product and service provider collapses. The research has also confirmed that there is a significant statistical relationship between the presence of ethical leadership within an organisation, organisational commitment and ethical conduct.

The gaps in current financial planning frameworks identified in this study may be sending the wrong message to the staff and agents of financial planning organisations about the conduct that is most valued. It can be inferred that if behaviour, such as meeting sales and finance targets, is the behaviour which is rewarded and linked to performance pay, bonuses and other rewards, then this is the behaviour that will prevail.

The systemic nature of some of the unethical conduct by financial advisers and across numerous clients that was identified in this study suggests motives other than the client's interests for the financial advice given. Failures to disclose the receipt of pecuniary incentives, high commissions and other third party benefits associated with the sale of third party and in-house financial products, were all practices identified in the stage 2 analysis.

This is inconsistent with the acceptance of responsibility to act in the public interest (APESB 2008) and for the collective wellbeing of other stakeholders. It also runs counter to the fiduciary nature of the financial planning relationship (ICAA 2006a). Any failure to disclose pecuniary interests and relationships that may pose a threat to the provision of objective advice, or that may create a negative perception of the ability to do so, poses a reputation risk for financial planning (ICAA 2007a). This was recognised by focus group participants in this study as well as other industry commentators and stakeholders, as described in Chapter 3.

It is the nature of these conflicts, the level at which they arise and the real and perceived impacts they have on advice which the evidence from this study suggests is an area the financial services industry is still struggling with. This evidence was derived from the Westpoint case study, the focus group findings and the data related to case scenario 3 of the FAIT instrument. The range of responses to Parts A and B of that scenario in particular infers that respondents were divided as to whether the adviser was entitled to the numerous fees and commissions associated with the margin lending advice given in that scenario.

The study's findings indicate that the current conflicts of interest issues facing financial planning participants are complex and significant. It is suggested that a purely regulatory or statutory response may not resolve these issues and that something else is required. Mere disclosure of conflicts of interest does not appear to be the answer.

The findings related to the contextual factors affecting ethical decision making within financial advisory firms also have important policy implications for ASIC and financial services organisations and reinforce comments made earlier in this section.

The gap or mismatch between compliance officers and financial advisers concerning the ethical climate that exists in financial planning firms, and arising from the results of hypothesis 7, also leads to a very different understanding about the organizational values that denote ethical behavior within these organisations and the expectations and boundaries set by them for ethical conduct and decision-making.

The policy implication is that such differences may affect a financial planning organisation's ability to comply with its legal and ethical obligations and additionally meet stakeholder expectations of ethical conduct and corporate social responsibility.

8.4 Recommendations

This study has attempted to research an important topic and translate the findings into practical guidance and outcomes that can be applied by financial services organizations, financial planning practitioners and other key stakeholders in order to reduce the likelihood of unethical outcomes and increase consistency in ethical decision making and conduct across the emerging profession of financial planning.

The recommendations made in this section of the Chapter have this objective in mind.

One recommendation made arises from the findings associated with research question one. It is recommended that the term "financial planner" should be defined in statute and linked to higher competency standards and professional association accreditation.

This term could be restricted such that only persons who met certain eligibility and competency requirements set by legislation could hold themselves out as providing financial planning advice. These competency and eligibility criteria could include, among other things:

- the achievement of an undergraduate degree or other recognised qualification or training in a related field of endeavour;
- the holding of a professional designation and membership of a recognised professional association with a Code of Ethics and Conduct accredited under the Act;
- the requirement to complete annual continuing professional development;
- recognition of a prescribed period of supervised practice prior to being eligible to use the term;
- the recognition of a fiduciary relationship between the person holding the restricted term and the client; and
- provision of financial advice to clients on a fee for service basis.

It is argued that the restricted use of this term is one action that could alleviate the confusion that currently exists for consumers who seek professional financial advice, as to whom is licensed to give advice in their interests and who meets relevant competency and ethical conduct standards that consumers would expect in a financial planner.

A fiduciary relationship gives rise to a higher standard of care and duty than one based simply in statute or contract. If financial planners are in a fiduciary relationship, they cannot misuse their position, knowledge or opportunities resulting from it, to their own or a third party's possible advantage (Chan v Zacharia (1984) 154 CLR 178). They must also avoid any conflict of interest that poses or may pose a significant threat to the planner's conduct and performance in providing financial advice, or that may create or creates a negative perception of their ability to provide financial advice on that basis, unless the client, fully informed, consents, or it is authorised by the law. In addition, they must also demonstrate trust, loyalty and discretion to their client.

It is recommended that these higher standards of conduct reflect the current standard of care most stakeholders would expect of a financial planner and should be formally adopted by Government as the appropriate legislative standard for financial planning advice.

The following recommendations concern the systemic pattern in unethical conduct related to the mismatching of clients to financial products that are either unsuitable or inappropriate. One recommendation is that consideration be given to ensuring that compliance systems and internal audit programs, which monitor personal, general and execution only advice, place greater emphasis on ensuring that unsuitable clients are not placed in highly speculative investments; that personal advice processes are followed where appropriate for retail clients.

In terms of the individual factors that influence ethical decision-making within financial services organisations, it is recommended that the current competency levels in ASIC Regulatory Guide 146 (ASIC 2008d) for new entrants to financial planning advice may be inadequate and should include education and training in ethics and ethical decision-making.

In addition, it is recommended that young financial planning entrants, when recruited to financial planning organisations, should be exposed to ethics education and inducted into the ethical climate and culture of the AFS Licensee to reduce the risk that decision-making will be unaligned to others within the organisation and lead to unethical conduct. A mentoring program or close supervision by an ethical role model or leader within the organisation also appears warranted.

It is recommended that AFS Licensee induction programs also be enhanced to include instruction in the governance and ethical culture systems of the organisation, so as to reduce the risk that decision making will be unaligned to the values of the organisation. It is also suggested that such training be linked to the reporting, disciplinary and performance management systems within the organisation, so as to ensure that important messages about acceptable and unacceptable behaviour are reinforced.

It is also recommended that the organisational competency standards for responsible managers within ASIC Regulatory Guide 105 (ASIC 2003b) be lifted, so as to ensure that responsible managers have training and experience in governance and business ethics, prior to appointment. This again takes on additional importance in light of the complex ethical issues that responsible managers and compliance officers currently deal with in their roles.

In terms of the contextual factors that influence ethical decision-making within financial services organisations, it is recommended that current remuneration structures be reviewed. The focus on disclosure as the primary mechanism for managing conflicts of interest arising from these structures does not appear to be adequate to protect consumers from unethical conduct. The significant and complex ethical issues related to conflicts of interest associated with financial services ownership and remuneration structures require a more substantial solution. To this end it is recommended that the receipt of commission payments by third parties and other alternative remuneration payments be banned.

In relation to the ethical context of the organisation, it is noted that it is not currently mandatory for AFS Licensees to comply with any of the Australian governance standards and that their application is subject to size and turn over requirements. The evidence also suggests that current legal compliance frameworks alone may not be sufficient to reduce or prevent systemic unethical conduct within financial advisory firms.

It is recommended therefore that there be a specific requirement within ASIC Regulatory Guide 104 (ASIC 2002a) for AFS Licensees to comply with corporate governance principles linked to existing Australian standards.

It is further recommended that AFS Licensees audit their existing systems and procedures against the ASCI used in section 2 of the main research questionnaire. In particular, it is recommended that AFS Licensees give consideration to enhancing and enforcing disciplinary policies against financial advisers who conduct themselves unethically. Other identified areas for improvement include the auditing and reporting of unethical conduct.

It is also recommended that AFS Licensees adopt key performance indicators for ethical conduct and link them to their performance management and staff bonus procedures.
The results of hypothesis 8 in particular suggest that perceptions of ethical leadership in an AFS Licensee are associated with perceptions of higher levels of community focus,

employee commitment and obedience to the law. A focus on developing and refining ethical leadership and role models within financial services organisations and particularly within financial advisory divisions seems warranted as a result.

One final recommendation is that the current focus on legal compliance frameworks within AFS Licensees be replaced by a “Cold Fusion” of integrated governance, risk management, ethics and compliance systems so as to ensure legal, ethical and professional obligations to all stakeholders are met going forward.

8.5 Limitations of the Study and Agenda for Further Research

A study of this nature has a number of limitations related to the breadth of knowledge areas covered, its methodology and its sample groups.

In terms of the breadth of knowledge areas researched, this study did not explore all of the relationships and constructs associated with ethical decision making that were identified from the literature. Rather, it was confined to an exploration of specific individual, situational and contextual factors that may have influenced the ethical decision making of two respondent groups within financial planning organisations, namely financial planners and compliance officers.

Further, the study has only considered ethical decision making from one side of the financial planning relationship. It has not considered the ethical and moral reasoning clients as investors bring to investment decisions and financial planning relationships.

It is recommended that future studies should investigate consumer decision making. In particular such a study could examine how and why consumers make investment decisions to invest in ethically or socially responsible companies or financial products.

Whilst this research found no difference between the cognitive ethical reasoning scores of female and male counterparts, it did not test whether female and male financial planning practitioners have different notions of morality and apply them in different ways when making decisions (Ruddick, 1989; Held, 1993), or whether female financial planners are more likely to base decisions on the ethics of care (Gilligan 1982) rather than the ethics of justice (Rawls 1971).

A question for future studies may be what, if any impact these differences have on the effectiveness of women within a contemporary financial services organisation, which it is assumed is a competitive environment and whether women who are also mothers are more exposed to competitive attitudes in the workplace than other staff.

This study did not concern itself with other individual factors, such as religious beliefs, personal morality or values held by the respondents. Nor did it measure moral intensity (Hofmann Hoezl & Kirchler 2006) or the intentions and motivations of the respondents in decision-making (Azjen 1991).

Further, it did not attempt to measure all of the contextual factors identified from the literature review as influencing ethical decision making, such as interaction with peers (Zey-Ferrell & Ferrell 1982) or authority figures (Lovisky, Trevino & Jacobs 2007). It is recognized that there are other contextual variables that may have influenced the decision making of the study's respondents that were not measured as part of this research and which could be the subject of future studies, such as the role of authority figures and ethical decision making and behaviour in groups.

In terms of the study's methodology, it is recognised that an expanded analysis of decisions of external decision makers may have revealed more comprehensive data associated with the types of unethical conduct associated with the provision of financial planning advice. One limitation of the analysis conducted for example, was that it did not include all of the decisions of the FOS Panel for the years 2006-2007 or the decisions of all external decision makers, beyond a two year period.

It is proposed that an expanded analysis of such decisions be conducted by other researchers every five years, to determine whether the patterns identified in this study change in response to statutory, regulatory and professional initiatives in the field of interest.

The study had other limitations. Securing access to a large sample group of financial planners to participate in the study became one of the biggest challenges encountered throughout the course of the thesis. It is acknowledged that the challenges associated with obtaining the sample group for the main survey instrument may have led to bias. However, the survey results also indicate that these respondents represented all of the demographic categories used and included a broad range of participants within the industry and from across professional membership groups.

In addition, numerous steps were undertaken successfully to ensure that the objectivity of the respondents was maintained. These steps included ensuring responses to the main research questionnaire were provided anonymously in an online environment, that responses were analysed and aggregated without identification of any participant, that no sensitive information was sought and that participation was voluntary.

The potential for bias caused by the low response rate for the main research questionnaire, has also been recognised previously in this thesis. A related issue was that response numbers used for measurement as part of the hypotheses testing, such as in different remuneration and professional designation groups, were small. This may have affected the results of some of the testing.

However, the results from the sample were still worthy of analysis. Nevertheless, it is canvassed that this study be re-validated by future research which stratifies samples into the categories of respondent used in this study. Alternatively, a study using only financial planners as respondents may provide additional empirical data associated with the ethical decision making of this emerging profession.

Some researchers have suggested that a web based survey should have elicited responses that were more honest and much less extreme, presumably because the web is anonymous (Buchanan 2004). However, to reduce the risk of social desirability bias further (Randall and Fernandes 1991), all of the study's participants were advised that they were free to decline to answer any question and were also free to withdraw from the study at any time. Individual responses were also only identifiable by the researcher and no particular individual was identified with any particular response or behaviour in any published material. Responses to the surveys were also aggregated and there was no disclosure of quotes attributable to any individual, obtained from the survey responses.

Another limitation of the study's methodology was the length of the main research questionnaire. Subject attrition by stage four, scenario four of the main research questionnaire has been attributed to this issue.

Successful steps were taken to ensure respondents were rewarded through continuing professional development points for their participation in the main research questionnaire and focus group stages of the research. However, it is proposed that future studies consider testing the FAIT instrument on its own and not as part of a broader research instrument. This would also allow the FAIT instrument to be expanded to a six scenario test instead of the four scenarios used in this study. Extending the number of scenarios may also add to the instrument's validity.

It is hoped that future researchers will replicate this research as it applies to the FAIT instrument in order to allow longitudinal testing of the new instrument, in addition to conducting further testing of the FAIT instrument and the FAIT score as valid predictors of cognitive ethical reasoning of financial planning participants.

There are numerous opportunities for future research related to the ethical decision making of financial planning participants and stakeholder groups and the factors that may influence that decision-making within Australian financial services organisations. This research is to be encouraged and supported.

8.6 Conclusions

This study is one of the first of its type conducted in Australia on financial planning participants and the organisations for which they work.

It has achieved its general objectives to determine the primary types of unethical conduct of financial planners in the provision of financial advice to consumers, to test the perceptions of financial planners and compliance officers of the current ethical issues they face in their respective roles within financial services organisations and determine the individual, situational and contextual attributes that influence the ethical decision making of financial planning participants in the provision of financial advice to Australian consumers.

It has also achieved its objective to predict the relationships between individual, situational and contextual factors and the ethical decision making of financial planners and compliance officers.

In terms of its specific research objectives, the results of the study have generally confirmed Bigel's (1998) theory of the cognitive ethical reasoning of financial planners in an Australian context. The study has also achieved its objective to develop a profession specific test of cognitive ethical reasoning for financial planning.

The study explored the current ethical climate and culture within their financial planning firms, measuring the perceptions of the two respondent groups of the ethical climate of financial services organisations and the systems and procedures related to the ethical culture of financial services organisations. In addition, it has explored gaps in the industry's existing ethical and regulatory framework.

The research has provided significant evidence of the significant and complex ethical issues faced by financial planning organisations and financial planning participants in the provision of financial advice to Australian consumers.

This study should be of significant value to financial planning participants and financial planning organisations alike. Its findings should highlight the ethical, legal and regulatory risks associated with the current environment. AFS Licensees, financial planners and compliance officers need to be able to identify the ethical issues that may be faced in the provision of advice to clients, understand how to resolve these dilemmas and the mechanics of ethical decision making. This study has also assisted in this way.

Further, financial planning organisations must develop an understanding of the ethical climate and ethical culture within their advisory businesses and how that impacts on the ethical decision making of their advisers and other staff.

They must also understand stakeholder expectations of the behaviour and conduct expected of those who provide this increasingly important service to the broader Australian community and ensure these stakeholders have more involvement in the development of financial advisory frameworks.

The thesis has highlighted that whilst there is a laudable focus on strict compliance with the minimum legal standards imposed by the Act, the spirit of that law and the ethical obligations associated with an emerging profession, seem to have been overlooked.

It is suggested that to fill the gaps identified by this study, financial planning organisations must move away from the current focus on legal compliance frameworks and implement systems and procedures that ensure ethical decision making and ethical context are consistent with the expectations of stakeholder groups.

At the very least, this thesis has concluded that financial planning organisations must align ethical climate and appropriate formal and informal ethical culture systems with their strategic objectives, corporate values, governance, risk management and compliance systems in order to reduce the risk of unethical conduct and the reputation and monetary penalties that flow as a result.

Given that ethical decision making and professionalism should not be the realm of legislators, it may be that the goals and objectives held by some for the emerging profession of financial planning will only be achieved by a move away from current legal compliance frameworks and a refocus on what it means to give professional advice to clients, with the individual responsibilities and accountability commensurate with that premise.

In conclusion, this study has attempted to refocus attention on the impact ethical decision making and conduct can have on the quality of financial advice provided by financial planning practitioners. It has also provided direction on how to align the ethical reasoning and professional obligations of an individual financial planning practitioner, with the organisation for whom they work and the ethical expectations of their stakeholder groups.

To this end, the research should also contribute to the knowledge base on how Australian financial planners can fulfil their obligations as an emerging profession within the multi- national and commercial environment of an increasingly globalised financial services industry in the 21st century.

It is hoped above all that a primary contribution has been made to counter in a financial planning context, what Francis and Armstrong (2004) have argued are commonly held perceptions; that ethics is hard to implement, that it is irrelevant in the real world, that it is imprecise and difficult to apply.

Professionalism and Ethics in Financial Planning
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APPENDIX D: CHAPTER 6 RESULTS

APPENDIX A

GLOSSARY OF ETHICAL TERMS

APPENDIX A: GLOSSARY OF ETHICAL TERMS

TERM	DEFINITION
Communitarianism	An umbrella term referring to any approach to ethics which determines the "good", the right or the virtuous in relation to particular traditions or social contexts. Communitarians stand in opposition to the view that ethical obligations are universal and therefore argue that principles such as justice must be understood and interpreted in relation to certain traditions or social spheres.
Confucian Ethics	Concerned with behaviour appropriate to relationships, including respect for tradition, preservation of traditional relationships and sincerity. Individual behaviour must be appropriate to the specific relationship and thus optimise the benefits to both.
Consequentialism	Ethical decisions are based primarily on calculating the possible outcomes or consequences of an action. These theories are based on realizing a particular end or goal (telos) and are therefore one form of *teleological ethics.* Examples include *utilitarianism* where the goal is to maximize utility or happiness; *situation ethics* where the end according to Fletcher is to maximize loving consequences, the *ethical egoist* seeks to maximize self interest.
Deontology	A commitment to an ethical act. Here the duty is either towards some person, group such as family, community, nation, humanity or idea. It does not specify what the duties are- only that actions are judged by the intention.
Egoism	This theory is concerned with self interest. Psychological egoism is a theory which describes how people are thought to behave. In contrast ethical egoism is a prescriptive theory about how people ought to act. There are two broad types: An *individual ethical egoist* believes that everyone ought to act in my self interest and *a universal ethical egoist* who believes that everyone should act in their own best interests.
Epistemology	The philosophical inquiry into knowledge or any theory of knowledge. For the study of ethics it is important to examine epistemological questions such as what constitutes moral knowledge. How do we determine moral objectivity, if at all? How do people learn what they know (or value).
Essentialism	A term that asserts that morality properly involves some essential or basic moral principles and values or that there are certain basic elements of human culture which ought to be preserved and endorsed across time and space. Proponents stress the importance of promoting a structured and orderly view of reality and human society.

Ethics of Care	A theory proposed in particular by feminist writers which focus on care, compassion and relationships. In contrast to traditional ethical approaches which emphasize rights, autonomy and abstract reasoning; proponents seek to maintain human connectedness stress the importance of context and situational demands and responses that emphasize the moral sentiments of nurture and care
Ethic of response	Ground in an integrated framework of consequentialist and non- consequentialist theories. As well as acknowledging the importance of a virtuous character or disposition, this approach to ethical decision making emphasizes that action which is the most fitting or most responsible. What is fitting should be guided by four elements including a responsiveness to all factors and parties concerned; an appropriate interpretation of the situation; a framework of social solidarity and accountability for the action decided. In addition, three procedural values are specified to guide decisions on normative issues being the respect for life principle; the justice principle and the covenantal integrity principle.
Ethics	Ethics is fundamentally interested in character. It may sometimes refer to the actual values and rules of conduct by which we live or the study of our values and their justification (sometimes called moral philosophy). Ethics and morals are often used interchangeably.
Existentialism	This theory claims that we are not born pre determined but rather make ourselves into what we are. Pursuant to this theory, a person bears the sole responsibility for all his actions. Choices are directed by one's radical freedom of the will rather than by society, nature or god.
Justice	This theory is concerned with what is right, fair or just in any social arrangement. What is just or due to a person may be adjudicated in different ways. Distributive justice is concerned with who ought to get what goods; it may take a person's due to be based on merit or desert need or ability. It is akin to social justice. In contrast retributive justice takes a person's due to mean what he or she deserves with particular references to retribution for wrongdoing also known as an eye for an eye philosophy.
Metaethics	Meta is the latin for "beyond" or "prior to". Hence, metaethics (including analytical ethics) involves considerations beyond or prior to the making of any moral judgments or the prescribing of a preferred ethical system (as in normative ethics).
Metaphysics	The philosophical inquiry into reality as a whole, beyond the world of immediate experience. It includes questions about the nature and the existence of the physical world, human nature and God.
Natural Law theory	A theory which equates a moral life with the life of reason, as discerned from nature or god's eternal law. Natural law

	theorists argue that whether one believes in god or not, moral agents share the same rational human nature and therefore the same human concept of morality for what is right or good. Law in the term natural law is used to mean laws that apply to everything in nature as opposed to humanly constructed or government law.
Nihilism	Literally the belief in nothing. In the prescriptive sense the nihilist might claim that there ought not to be any cultural values and that nothing ought to be seen as a "good". Descriptive nihilism places emphasis on the belief that people make the world everything that it is, denying any appeal to non human or other worldly factors such as god.
Non consequentialism	An approach to ethics where decisions are based on some clear intrinsic view of the right or one's duty rather than according to consequences. Examples include *Kantian ethics* where one's duty is absolute, gleaned through powers of rationality and autonomy. It can include notions of prima facie duties where obligations are viewed as hierarchical and able to be overridden by higher duties; and divine command theory which claims one's duty is informed by adherence to principles of divine teaching.
Normative ethics	Provides frameworks or theories to assist in the making of moral judgments**.** It is prescriptive in the sense that it involves deciding what we ought to do, how we ought to live and why. It attempts to set ethical standards (or norms) for conduct**.**
Philosophy	Traditionally means 'love of wisdom" The broad overall purpose of what philosophers do is engage in a critical, rational appraisal of significant social beliefs. Moral philosophers study moral beliefs and values and their justification (i.e. ethics).
Pluralist society	Belief in the freedom of the individual
Post modernism	The clarity of concepts, of theoretical underpinnings and of philosophical certitude is no longer possible.
Rationalism	Takes reason as the ultimate authority in all matters of knowledge, belief or behaviour.
Rawls' Social contract theory	For Rawls, the ideal social contract would be a situation governed by justice as fairness where justice is built on the freedom principle (an equal right to basic liberties) and the equality and social difference principle, where any inequalities could only be justified if they are to be the greatest benefit of the least advantaged. The assumption is that rational persons would choose such principles impartially if they did not know their position in society.
Relativism	A theory which claims that what is right or good is always relative to the particular circumstances and beliefs of a people or person. There is no objective or absolute standard to appeal to when trying to decide what is right.

Universalism	Refers to an ethical approach which claims a principle always applies across cultures and generations (such as Kantianism) or that a method is the best means to producing the most ethical outcome (some forms of utilitarianism). The assumption is that ethics goes beyond local interests or cultural constraints to a standpoint that is eternal or universally valid.
Utilitarianism	A normative ethical theory originally developed by Jeremy Bentham and John Stuart Mill that seeks to bring about good consequences to all concerned – that is the greatest good for the greatest number principle, calculating the interests of all concerned in terms of pleasure, happiness or utility. This theory ignores good intent and some argue fails to protect the rights of the minority
Virtue theory	Another form of teleological theory. Originally presented by Aristotle, this ethic centres on character or the moral qualities of a person. The aim is to foster living well so that good and right behaviour becomes a habit. Moral virtues (or excellences) tend to be practice or tradition specific.

APPENDIX B

ETHICAL OBLIGATIONS FOR FINANCIAL ADVISORY MEMBERS OF PROFESSIONAL ASSOCIATIONS

APPENDIX B: ETHICAL OBLIGATIONS FOR FINANCIAL ADVISORY MEMBERS OF PROFESSIONAL ASSOCIATIONS

Obligation	FPA Code of Ethics	CPA Australia/ICAA APS 12	AFA Code of Ethics	NIBA Code of Conduct	SDIA Code of Ethics and Code of Conduct
Integrity	Observe high standards of honesty and integrity in conducting a financial planning business and in the provision of financial planning services.	Be straightforward, honest and sincere in the approach to professional work.	Present accurately, honestly and completely, every fact known to me which is essential to the clients decision making.	Be professional, efficient and responsive in all dealings.	Be honest. Not engage or induce another person to engage in conduct that is likely to mislead or deceive.
Objectivity	Disclose to the client any limitation on the ability to provide objective financial planning services.	In providing financial advice, uphold the principles of professional independence. When providing financial advice, maintain an impartial attitude and recommend solutions that meet the client's situation.	Shall act in the best interest of the client to extend their financial life and abide by the laws and regulations under which I conduct business.	Provide advice and guidance to enable clients to make informed decisions on risk and insurance protection. Act in the best interests of the client.	Avoid the potential impact of conflicts of interest on clients by having adequate arrangements for controlling, identifying, disclosing, managing and where appropriate, avoiding conflicts of interest. Act in the best interests of and be unbiased towards clients, employers, employees and the public.
Competence	Provide competent financial planning services and maintain the necessary knowledge and skill to continue to do so in those areas in which the member is engaged.	Apply the same degree of skill, competence and diligence that is required to be exercised in performing any other professional work. Carry out professional work in accordance with the technical and professional standards relevant to that work.	Strive to achieve the highest standards of professional competence by maintaining **and** improving my knowledge and skills	Be professional, efficient and responsive in all dealings.	Take reasonable action to ensure sufficient knowledge of securities and derivatives practice, relevant legal requirements, this Code and market rules.

Fairness	Provide financial planning services in a manner that is fair and reasonable.	Act fairly and must not allow prejudice, conflict of interest or bias to override objectivity.	Use all ethical means to persuade clients to protect their insurable interests and obligations.	Provide full and accurate information for effective underwriting	Must compete fairly in the market, including not taking unfair advantage of other members be engaging in anti competitive or unconscionable conduct.
Reasonable Care & Diligence	Act with due skill, care and diligence in the provision of financial planning services.	Take reasonable professional care in the performance of the work.	Render continuous service to clients and their beneficiaries.	Ensure the validity and accuracy of all documentation and make available all relevant documentation, policies, certificates, endorsements, and premium calculations, as may be required.	Be competent, diligent, efficient and effective in work.
Professionalism	Ensure conduct does not bring discredit to the financial planning profession.	Conduct themselves in a manner consistent with the good reputation of the profession and refrain from any conduct which might bring discredit to the profession.	Maintain high standards of personal and professional conduct to reflect favourably upon the profession of Life writer and serve as an example to others.	Work towards maintaining and enhancing the reputation of NIBA and its members.	Not engage in conduct that would bring the Association into disrepute. Not be influenced by others attempting to compromise these standards.
Confidentiality	Not disclose any confidential information without the specific consent of the provider of that information unless compelled to by law or as required to fulfil their legal obligations.	Respect the confidentiality of information acquired in the course of work which must not be used for any purposes other than the proper performance of professional duties for the client, unless there is a legal or professional duty to disclose.	Hold in strictest confidence and consider privileged, all business and personal information pertaining to my clients affairs.	Respect the client's confidentiality in relation to all records and information.	Provide adequate information to clients that will enable the client to give informed consent to work undertaken and fees to be charged. Respect the client’s right to privacy and confidentiality of their personal information.

Compliance	Members shall ensure their conduct complies with the Memorandum and Articles of Association of the FPA, the FPA's regulations and Professional Standards.	The Standards are mandatory and enforced in accordance with the existing disciplinary mechanisms of both organizations. Non compliance can lead to disciplinary proceedings under Article 27 of the Constitution of CPA Australia and By Law 40 of the Institute.	Members solemnly undertake to uphold these principles	Act in the spirit of the Code and encourage others to do likewise. In the event of a claim, take every step necessary to ensure prompt and fair settlement.	Obey and comply with this Code of Ethics and Code of Conduct. Members must obey the laws of the community, including legislation, statutory rules, and regulatory and self-regulatory requirements governing the conduct of the industry.

APPENDIX C

CHAPTER 5 METHODOLOGY

APPENDIX C: CHAPTER 5 METHODOLOGY

APPENDIX C.1: DATABASE SEARCH INDEX USED FOR ACADEMIC RESEARCH

Database Sourced	Subjects Covered	Data Link, if not accessed through Victoria University Electronic Library Service
Academic Research Library	Multidisciplinary	
Academic Search Elite	Multidisciplinary	
Academic Search Premier	Multidisciplinary	
AGIS	Australian corporate and civil law	
Australasian Legal Information Institute (AUSTLII)	Australian Case Law and Legislation	http://www.austlii.edu.au
Australian Standards Online	Australian Standards	
Business Source Premier	Business	
Business Source Complete	Business	
CCH Australia Online	Australian Law and accounting	http://www.cch.com.au
Digital Dissertations	Theses (abstract only)	
EBSCO Host Databases	Multidisciplinary	
Emerald Fulltext	Business	
Emerald Reviews	Abstracts only	
Factiva	Newspaper and magazine articles on financial services	
FindLaw Australia	Australian law	http://www.findlaw.com.au
Google Scholar	Multidisciplinary	http://scholar.google.com
Lexis.com	Case Law and journals	
Melbourne University Law School	Australian civil and financial services law and legislation	http://ccl/sr.law.unimelb.edu.au
Open Citation Project	Multidisciplinary	http://opcit.eprints.org.au
Research Owl	Multidisciplinary	http://researchowl.blogspot.com.au
Social Sciences Plus	Social science journals	
St James Ethics Centre	Ethics	http://ethics.org.au
Standards Australia Limited	Australian standards	http://www.standards.org.au
Victoria University	Multidisciplinary	http://www.vu.edu.au

APPENDIX C.2: KEY WORD SEARCH TERMS

Search Terms
Business ethics
Codes of Ethics
Corporate social responsibility
Defining Issues Test
Delphi techniques
Ethical behaviour
Ethical principles
Ethical climate
Ethical climate surveys
Ethical culture
Ethical decision making
Ethical decision making frameworks
Ethical decision making and financial advice
Ethical reasoning
Ethical theory
Ethics
Ethics and financial advice
Fiduciary
Financial planning
Financial planning and ethics
Financial planning and professional standards
Financial services advice
Focus groups
Moral reasoning
Negligence and financial advice
Negligence and financial adviser
Professional Codes of Ethics
Professional ethics
Professionalism
Professional standards
Professional standards and financial advice
Qualitative methods
Quantitative methods
Stakeholder theory

APPENDIX C.3: OTHER DATA SOURCES

Database Sourced	Subjects Covered	Data Link
Accounting Professional and Ethical Standards Board	Financial advisory services, professional standards	http://www.apesb.org.au
Asset, The magazine for financial planning professionals	Financial services industry issues	http://www.assetmag.com.au
Association of Superannuation Funds of Australia Ltd	Financial services, superannuation	http://www.superannuation.asn.au
Australian Government – Choice of Superannuation Fund	Superannuation	http://www.superchoice.gov.au
Australian Government, The Treasury	Financial services	http://www.treasury.gov.au
Australian Securities and Investments Commission	Financial services law and regulation	http://www.asic.gov.au
CPA Australia	Financial advisory services, professional standards	http://www.cpaaustralia.com.au
Financial Industry Complaint Service	Financial services alternative dispute resolution	http://www.fics.asn.au
Financial Ombudsman Service	Financial services alternative dispute resolution	http://www.fos.org.au
Financial Planning Association of Australia Limited	Financial advisory services, professional standards	http://www.fpa.asn.au
Institute of Chartered Accountants	Financial advisory services, professional standards	http://charteredaccountants.com.au
Investor Daily	Financial services industry issues	http://www.investordaily.com
Money Management Magazine	Financial services industry issues	http://www.moneymanagement.com.au
National Institute of Accountants	Financial advisory services, professional standards	http://www.nia.org.au
National Insurance Brokers Association	Financial advisory services, professional	http://www.niba.com.au

	standards	
Parliament of Australia, Parliamentary Joint Committee on Corporations and Financial Services	Financial services law and regulation	http://www.aph.gov.au/senate/committee/corporations_cttee
The Age Newspaper	Financial services industry issues	http://www.theage.com.au
The Australian Newspaper	Financial services industry issues	http://www.theaustralian.news.com.au
Securities & Derivatives Institute of Australia	Financial advisory services, professional standards	http://www.sdia.org.au

APPENDIX C.3 (cont): DATA SOURCES USED FOR CONSUMER COMPLAINT DETERMINATION ANALYSIS

Decision Maker	Analysis	Sources	Years
Australian Courts	Judicial decisions made in different jurisdictions	Austlii Database	2006 - 2007
FOS	General statistics	Annual reports/website	2006-2007
	Adjudications	Adjudication register at www.fics.org.au.	2006/07
	Determinations	Determinations register at www.fics.org.au.	2006/07
	Systemic determinations	Annual reports/website	2006/07
ASIC	General statistics	Annual reports, ASIC website and registers	2004 - 2007
	Banning orders	ASIC banning order registers at www.asic.gov.au/asicregisters/banned&disqualifedpersons/AFSbanneddisqualifiedpersons. ASIC archives of media releases	2006/07
	Enforceable undertakings	ASIC enforceable undertaking registers at www.asic.gov.au/asicregisters/enforceableundertakings. ASIC archives of media releases	2006-2007
AAT/Fed Crt	Decisions	AAT website/ Federal Court website and Austlii Database	2006-2007
	Appeals	As above	2006 -2007

APPENDIX C.4: LETTERS TO PROFESSIONAL ASSOCIATIONS

APPENDIX C.4.1 FPA Letter

15 November 2005.

Ms Kerrie Kelly
Chief Executive Officer
Financial Planning Association of Australia
Level 4, 73 - 75 Castlereagh Street
SYDNEY, NSW 2000.

Dear Ms Kelly,

The Centre for International Corporate Governance Research, Victoria University is undertaking a study into ethical decision making in financial planning in Australia. The study is being conducted at the Centre, by June Smith, a Doctoral Candidate under the supervision of Professor Anona Armstrong and Professor Ronald Francis.

We attach a one page summary about the study for your information.

We seek your assistance with the study as the peak professional body, in particular with the delivery of survey material to your members. In return, we would be happy to provide you with a copy of our final report and findings.

The study can be delivered to your members via a number of mechanisms. One method is for your organisation to deliver the survey material to your members by sending it to a random selection of individual practitioner members via electronic transfer. All responses can then be sent by the member to a predetermined address for collation and analysis by us.

Another option is for the survey to be delivered by us as a conference session at one of your conferences or CPD days. This can be achieved in a number of ways. The survey can be delivered to delegates as part of the conference materials, with analysis of results to be done prior to the conference. We could then deliver the overall findings as part of a conference session. Alternatively, completion of the survey could be done by participants as a conference session.

We will provide the survey to your organisation to assess for any CPD points that may apply.

We shall ensure the privacy of participants. All answers received from participants will be kept confidential by the researcher. Participants will not be identified in any published report. In addition, all individual responses will be aggregated.

We look forward to working with you on this project and its outcomes.

If you have any queries about this project, please contact June Smith on ph. (03) 9873 8914 or email jsmi4525@bigpond.net.au). Alternatively you may contact Professor Anona Armstrong on (03) 99191315 or Professor Ronald Francis on ph. (03) 99191212.

Questions or concerns about the treatment of participants may also be directed to the Secretary, University Human Research Ethics Committee, Victoria University of Technology, PO Box 14428 MCMC, Melbourne, 8001 (telephone no: 03-9688 4710).

Yours sincerely,

Professor Anona Armstrong
Principal Supervisor
Director, Centre for International Corporate Governance Research.

ATTACHMENT: STUDY SYNOPSIS

The Study

This study will be one of the first of its type conducted in Australia on financial planners. The study requires financial planners to participate in a survey that will identify the level of ethical reasoning and the cognitive frameworks used by them when making ethical decisions. It will also test their perceptions of the current ethical climate and culture within financial planning organisations. The study will investigate the factors that may be influencing financial planners in their ethical decision making, and explore any gaps in the industry's existing ethical framework.

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

The Aims of the Study

The study's specific aims are to:

- Identify the level of ethical reasoning of financial planners and the cognitive frameworks used to make ethical decisions in the provision of financial planning advice;
- Identify factors influencing the ethical reasoning of financial planners and analyse the impact these factors are having on the ability of financial planners to meet their professional and ethical obligations to clients;
- Investigate 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 organization and whether these may be factors influencing their ability to meet their professional and ethical obligations;
- Compare these perceptions to those of the compliance officer who is responsible for supervising the advice given by a financial planner ; and
- Identify any gaps in existing ethical frameworks within the financial planning industry and develop a model ethical framework for financial planning firms.

It is hoped that the study will provide direction on how to align the ethical reasoning and professional obligations of an individual practitioner, with the organization for whom they work and the ethical expectations of their stakeholder groups.

The Procedures:

The participation of subjects is voluntary and will involve the completion of survey questionnaire which will take approximately 20 to 30 minutes of their time. The first part of the questionnaire provides some ethical case scenarios. Each scenario is then followed by a group of questions for answer which will discern how the subject (1)

reasons, (2) would act in that situation (3) perceives the ethical conflict and (4) how they arrived at the perceptions held.

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

The second part of the questionnaire contains questions which will measure the organizational characteristics, ethical climate and culture of their work place.

The study is not seeking to obtain sensitive information from the subjects. They are free to decline any question should they wish to do so. They 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.

APPENDIX C.4.2: CPA AUSTRALIA LETTER

15 November 2005.

Mr. Paul Wappett
General Manager Member Development,
CPA Australia
Level 28, 383 Bourke Street
MELBOURNE, VIC, 3000.

Dear Mr. Wappett,

The Centre for International Corporate Governance Research, Victoria University is undertaking a study into ethical decision making in financial planning in Australia. The study is being conducted at the Centre, by June Smith, a Doctoral Candidate under the supervision of Professor Anona Armstrong and Professor Ronald Francis.

We attach a one page summary about the study for your information.

We seek your assistance with the study as the peak professional body, in particular with the delivery of survey material to your members. In return, we would be happy to provide you with a copy of our final report and findings.

The study can be delivered to your members via a number of mechanisms. One method is for your organisation to deliver the survey material to your members by sending it to a random selection of individual practitioner members via electronic transfer. All responses can then be sent by the member to a predetermined address for collation and analysis by us.

Another option is for the survey to be delivered by us as a conference session at one of your conferences or CPD days. This can be achieved in a number of ways. The survey can be delivered to delegates as part of the conference materials, with analysis of results to be done prior to the conference. We could then deliver the overall findings as part of a conference session. Alternatively, completion of the survey could be done by participants as a conference session.

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We look forward to working with you on this project and its outcomes.

If you have any queries about this project, please contact June Smith on ph. (03) 9873 8914 or email jsmi4525@bigpond.net.au). Alternatively you may contact Professor Anona Armstrong on (03) 99191315 or Professor Ronald Francis on ph. (03) 99191212.

Questions or concerns about the treatment of participants may also be directed to the Secretary, University Human Research Ethics Committee, Victoria University of Technology, PO Box 14428 MCMC, Melbourne, 8001 (telephone no: 03-9688 4710).

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The study is not seeking to obtain sensitive information from the subjects. They are free to decline any question should they wish to do so. They 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.

APPENDIX C.4.3 ICAA LETTER

15 November 2005.

Mr. Hugh Elvy
Manager Financial Planning and Superannuation,
Institute of Chartered Accountants in Australia
Level 14, 37 York Street
SYDNEY, NSW, 2000.

Dear Mr Elvy,

The Centre for International Corporate Governance Research, Victoria University is undertaking a study into ethical decision making in financial planning in Australia. The study is being conducted at the Centre, by June Smith, a Doctoral Candidate under the supervision of Professor Anona Armstrong and Professor Ronald Francis.

We attach a one page summary about the study for your information.

We seek your assistance with the study as the peak professional body, in particular with the delivery of survey material to your members. In return, we would be happy to provide you with a copy of our final report and findings.

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Yours sincerely,

Professor Anona Armstrong
Principal Supervisor
Director, Centre for International Corporate Governance Research

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- Compare these perceptions to those of the compliance officer who is responsible for supervising the advice given by a financial planner ; and
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The Procedures:

The participation of subjects is voluntary and will involve the completion of survey questionnaire which will take approximately 20 to 30 minutes of their time. The first part of the questionnaire provides some ethical case scenarios. Each scenario is then followed by a group of questions for answer which will discern how the subject (1)

reasons, (2) would act in that situation (3) perceives the ethical conflict and (4) how they arrived at the perceptions held.

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

The second part of the questionnaire contains questions which will measure the organizational characteristics, ethical climate and culture of their work place.

The study is not seeking to obtain sensitive information from the subjects. They are free to decline any question should they wish to do so. They 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.

APPENDIX C.5: SCHEDULE OF ETHICAL PRINCIPLES USED TO CONDUCT CONSUMER COMPLAINT REVIEW

Ethical Principle	Description	Code	Identifier
Integrity	Observe high standards of honesty and integrity in conducting a financial planning business and in the provision of financial planning services. To be straightforward and sincere and keep one's commitments. To present accurately, honestly and completely, every fact known which is essential to the client's decision making.	INT	1
Objectivity	Uphold the principles of professional independence and maintain an impartial attitude whilst acting in the interests of the client Disclose to the client any limitation on ability to provide objective financial planning services. Recommend solutions that meet the client's situation and objectives.	OBJ	2
Competence	Provide competent financial planning services and maintain the necessary knowledge and skill to continue to do so in those areas in which the member is engaged. Be professional, efficient and responsive in all dealings	KNO	3
Fairness	Provide financial planning services in manner that is fair and reasonable. Not allow prejudice, conflict of interest or bias to override objectivity.	FAI	4
Diligence	Act with due skill, professional care and diligence in the provision of financial planning. Act with dignity, respect and courtesy in dealing with all stakeholders, including clients and fellow professionals.	DIL	5
Professionalism	Conduct themselves in a manner consistent with the good reputation of the profession. Ensure conduct does not bring discredit to the financial planning profession. Apply appropriate professional standards when exercising discretionary judgment.	PRO	6

	Accept the consequences of one's actions and accept responsibility for one's decisions.		
Confidentiality	Respect the confidentiality of information acquired in the course of work Not discuss any confidential information without the specific consent of the provider of that information, unless compelled to by law or as required to fulfil their legal obligations.	CON	7
Compliance	Ensure conduct complies with the Constitution, regulations and Professional Standards of the Association. Act in the spirit of the Code and encourage others to do likewise. In the event of a claim, take every step necessary to ensure prompt and fair settlement.	COM	8

APPENDIX C.6: POWER POINT PRESENTATION FOR FOCUS GROUP SESSION

June Smith

Melbourne Compliance Managers Group

Wednesday 6 February 2008

Focus Group -
Financial Planning
Ethics

conducted by the June Smith and the International Centre for International Corporate Governance Research, Victoria University

June Smith

Introduction

Thank you for participating in this focus group. The agenda for our session is as follows:

1. An overview of the PhD study
2. The context of the research
3. The role of the focus group and your role as a participant
4. The questions to be asked of the group and individual participants What analysis will be completed?
5. Where to from here?

June Smith

Who is undertaking the study?

¥ This focus group forms part of a PhD study undertaken by June Smith, through the International Centre for International Corporate Governance Research, Victoria University.

¥ The study is being supervised by Professor Anona Armstrong and Professor Ronald Francis.

¥ The focus group is being conducted in association with the Financial Planning Association of Australia Ltd.

June Smith

An overview of the Study

The research will use surveys/focus groups and other analysis to examine:

¥ The types of ethical issues that financial planners and compliance managers believe they face in the provision of advice to clients;

¥ How financial planners and compliance managers identify and resolve ethical dilemmas;

¥ The cognitive frameworks they use to make decisions;

¥ The tools and decision making frameworks they rely on;

¥ The dynamic between the participant and the organisation for whom they work, including the perceptions participants have of the ethical climate and culture of the organization;

¥ Any perceived gaps between the ethical values of the adviser, the compliance manager and the organisation for whom they work.

A comparative study

- Are there differences between financial planners and compliance managers in terms of their perceptions of ethical dilemmas and ethical culture and ethical climate?
- Are there differences associated with age, experience, gender & education level?

June Smith

WhatĠs involved?

- **Stage One** ĞAn analysis of banning orders and enforceable undertakings over the last two years by ASIC and an analysis of determinations of the FICS Panel over the same period.
- **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** ĞFocus group sessions to identify the ethical issues advisers face in the provision of advice and some of the factors that may be influencing the ethical decision making of financial planners.
- **Stage Four** ĞThe completion of a research questionnaire.
- The first part will test: how the participant 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 asks the participant for their perceptions of the ethical climate and ethical culture within their organisations.

June Smith

How do people make ethical decisions?

The factors predicating ethical decision making include:

- Individual Ğdemographic, moral values, cognitive development
- Situational Ğissue perception
- Contextual Ğclimate and culture of the organisation, leadership, role models, peer activity, organisational values, whistleblower protection.

June Smith

The role of the focus groups

- The groups form a critical part of the research
- They will involve both financial planners and compliance officers
- Participation is voluntary and will take approximately 1/2 hour to 45 minutes of your time.
- The discussions of the focus groups will be taped and transcribed.
- Participants will not be identified by name in any published report from this study.
- All individual responses will be aggregated. This is because we are interested in patterns and overall perceptions across the focus groups, not the individual responses of any one participant.
- The information from the sessions may be shared with the FPA, for the purposes of developing content in their professional standards program

June Smith

Your role

- We are interested in your perceptions and views as industry participants
- No sensitive information will be requested.
- You may decline to answer any question asked.
- You may also withdraw from the focus group at any time.
- Your individual answers will be kept confidential.
- We are unable to pay you for your participation
- On completion of the study you may request a summary of the studyÕs key findings.

June Smith

Your turn

- **Question 1** ĞWhat are some of the ethical issues you believe financial planners currently face in the provision of advice to clients?

- **Question 2** ĞWhat are some of the ethical issues you believe compliance managers currently face in their roles?

- **Question 3** ĞWhat are some of the factors that you believe may be influencing the ethical decision making of both financial planners and compliance managers in their roles?

June Smith

Where to from here?

¥ Data collection commences now
¥ First focus group November 2007
¥ ASIC and FICS analysis ĞNov ĞMar 08
¥ Questionnaire ĞApr/May 08
¥ All data collected by June 08
¥ Study submitted June 09

June Smith

Conclusion

Financial Planners and Compliance Officers should:

¥ Apply their moral code, personal values and experience to the identification and resolution of ethical issues in question;
¥ Be creative, flexible and insightful in decision making;
¥ Apply the law or any professional codes of ethics that may be relevant;
¥ Understand that corporate climate and culture will also influence ethical behaviour and decision making;
¥ Exercise professional judgement, which is the ultimately repository of ethical decision making, not the law.

Thank you for your time and participation

APPENDIX C.7: CONSENT FORM FOR FOCUS GROUP PARTICIPANTS

Consent Form for Participants Involved in Research
"Professionalism in Financial Planning"

INFORMATION TO FOCUCS GROUP PARTICIPANTS:

We invite you to be a part of our pilot study into ethical decision making in financial planning in Australia. The study is being conducted at the Centre for International Corporate Governance Research, Victoria University of Technology, by June Smith, a Doctoral Candidate under the supervision of Professor Anona Armstrong and Professor Ronald Francis.

The substantive study will identify the levels of ethical reasoning and the cognitive frameworks used by financial planners and compliance managers when making ethical decisions, as well as their perceptions of the ethical climate and culture within financial planning firms.

The study will also investigate the factors that may be influencing these groups in their ethical decision making and explore any gaps in the industry's existing ethical and regulatory framework.

This pilot study will conducted by convening a series of focus groups involving financial planners and compliance managers. The pilot study has two aims. The first is to assist us in identifying factors you believe may be influencing the ethical decision making of financial planners and compliance managers. The second aim is to identify some of the current ethical issues you believe are faced by financial planners and compliance managers in the provision of advice to clients.

Your participation is voluntary and will involve participation in this focus group which will take approximately 1/2 hour to 45 minutes of your time.

The focus group is not seeking to obtain sensitive information from you. You are free to decline to answer any question asked of you, should you wish to do so. You may also withdraw from the focus group at any time.

The discussions of the focus group will be taped and transcribed. However, your individual answers will be kept confidential by the researcher. Participants will also not be identified by name in any published report from this study. Further, all individual responses will be aggregated. This is because we are interested in patterns and overall perceptions across the focus groups, not specifically the individual responses of any one participant.

Whilst we are unable to pay you for your participation, you will have contributed to a major study on the ethical decision making within financial planning practice and the development of new models which will assist Australian financial planners and compliance managers in fulfilling their ethical obligations to clients in the 21st century. Further, on the completion of the study we will provide you with a summary of the study's key findings. We have also developed the content of the focus group format to ensure you receive continuing professional development recognition for your participation, should that be relevant to you.

CERTIFICATION BY SUBJECT

I,
of

certify that I am at least 18 years old* and that I am voluntarily giving my consent to participate in the study entitled “Professionalism and Ethics in Financial Planning”:

being conducted at the Centre for International Corporate Governance Research, Victoria University of Technology by June Smith, a Doctoral Candidate under the supervision of Professor Anona Armstrong and Professor Ronald Francis.

I certify that the objectives of the study, together with any risks and safeguards associated with the procedures listed hereunder to be carried out in the research, have been fully explained to me by:

the researcher, June Smith

and that I freely consent to participation involving the use on me of these procedures.

Procedures:

The study requires participants to take part in a focus group. The aims of the focus group are to assist in identifying factors the participants believe may be influencing the ethical decision making of financial planners and compliance managers and to identify some of the current ethical issues participants believe are faced by financial planners and compliance managers in the provision of advice to clients.

I certify that I have had the opportunity to have any questions answered and that I understand that I can withdraw from this study at any time and that this withdrawal will not jeopardise me in any way.

I have been informed that the information I provide will be kept confidential.

Name (please print) ……………………………

Contact Phone No. …………………………….

Email Address …………………………………

Signed: **.. }**

Witness other than the researcher: **}** **Date: ....**

...}

Any queries about your participation in this project may be directed to the researcher (Name: June Smith ph. (03) 9873 8914 or email jsmi4525@bigpond.net.au). If you have any queries or complaints about the way you have been treated, you may contact the Secretary, University Human Research Ethics Committee, Victoria University of Technology, PO Box 14428 MCMC, Melbourne, 8001 (telephone no: 03-9688 4710).

APPENDIX C.8: LIST OF ELEMENTS FOR SECTION 2 ETHICAL CULTURE SURVEY

List of elements expected for effective an Ethical Culture within an organization under AS 8002-2003 - Australian Standard: Organisational Codes of Conduct, Standards Australia:

Element	Description	Referring Question Within Survey
1. Ethical Framework	An appropriate ethical framework developed using a participatory approach which builds commitment from all employees and subject to ongoing monitoring and maintenance. Will include the development and promulgation of the other fundamental elements.	Section 2 in general
2. Codes of behaviour	A comprehensive Code of Ethics/Conduct incorporating a high level aspirational statement of values with limited detail of proscribed behaviour – A code of conduct will be more prescriptive as appropriate to the entity.	S2Q1 & Q2 S3 Q4 & Q11
3. Allocation of responsibility	Responsibility assigned to a senior person for ensuring the entity's ethics initiatives are implemented and monitored. This person would have a direct line of reporting to the Ethics Committee or another senior management body with overall responsibility for the entity's ethical culture.	S3 Q9 S3 Q27
4. Ethics Committee	An 'Ethics Committee', once appointed, will be the final arbiter on issues of apparent misconduct and ethical dilemmas that cannot otherwise be resolved at line-management level. It is typically also the body charged with overseeing the operation and maintenance of the entity's entire ethical framework.	Questions on enforcement and reporting S2 Q7 & Q4 S3 Q1 & Q7

5. Communication	Communication of the importance of ethical standards through regular dissemination of material such as newsletters and web sites.	S2 Q5 S3 Q24 & Q26
6. Training	Specific ongoing training in the use of codes of behaviour and ethical tools for decision-making and feature ethics components in all training.	S2 Q3 S3 Q24
7. Reinforcement	Incorporation of an integrated ethical standard into performance management, e.g. 360 degree feedback, performance appraisal systems and remuneration strategies.	S2 Q8, & Q9 S3 Q2, Q5 & Q8
8. Benchmarking	A program for continuous benchmarking of ethical standards aimed at identifying improvement in the entity's ethical standards over time and between different elements of the entity – the entity should also publish the results of a written social/ethics audit to all key stakeholders.	Not asked
9. Reporting of complaints	A mechanism for the communication of ethical concerns inside and outside the normal channels of communication.	S2 Q4 S3 Q27
10. Senior Management	Senior management group that recognizes the need for establishing and maintaining an ethical culture and actively promotes such a culture.	S3 Q1, Q3, Q9,Q10, Q21, Q22 & 23
11. Compliance	A policy requiring all personnel to sign an annual statement to the effect that they have complied with all necessary corporate policies in connection with conflict of interest, disclosure of confidential information and other relevant ethics related issues.	S3 Q27

APPENDIX C.9: COMPARATIVE ANALYSIS OF QUESTIONS USED IN SECTION 3 ETHICAL CLIMATE QUESTIONNAIRE

No	Original Question	Change Made For Pilot	New No.	New Pilot Survey Question	Change Made After Pilot	New No.	New Main Survey Question
A.	**Ethical Climate**	**Heading changed - to change perceived bias**		**The Environment**	**No change**		
	Management in this organisation disciplines unethical behaviour when it occurs	Change to wording "licensee" for "organisation throughout survey to ensure matches financial planning environment of participants who are not always employed by AFSL.	1	The Management of this Licensee disciplines unethical behaviour when it occurs.	No change, except to italicise "unethical" so that participants pick up more clearly when used instead of "ethical"	1	The Management of this Licensee disciplines *unethical* behaviour when it occurs.
	Employees in this organisation perceive that people who violate the ethics code still get	Change to wording "Employees" substituted with	2.	People at this Licensee perceive that the Advisers who engage in unethical behaviour still	Substitute "those" for "advisers" Italicise "unethical"	2	People at this Licensee perceive that those who engage in *unethical* behaviour still get

	formal organisation rewards	"People" given not all participants will be employed by AFSL.		get formal organisational rewards.			formal organisational rewards.
	Penalties for unethical behaviour are strictly enforced in this organisation	Taken out Because numerous questions like it in this section					
	The top managers of this organisation represent high ethical standards	Taken out Because numerous questions like it under employee focus					
	The ethics code serves as 'window dressing" only in this organisation	Taken out Because we have question about public image.					
	Ethical behaviour is the norm in this organisation	Taken out Because its just getting too long					
	Top managers of this organisation guide decision making in an ethical direction.	Wording changed "senior managers of this licensee" instead of "top	3.	The senior managers of this Licensee guide decision making in an ethical environment.	No change	3	The senior managers of this Licensee guide decision making in an ethical environment.

		managers of this organisation”					
	The ethics code serves only to maintain the organisation’s public image	Wording changed To reflect AFSL environment as above.	4.	The Licensee’s Code of Ethics serves only to maintain the organisation’s public image.	No change	4	The Licensee’s Code of Ethics serves only to maintain the organisation’s public image.
	Ethical behaviour is rewarded in this Organisation.	Wording change “Licensee” substituted for “Organisation”	5.	Ethical behaviour is rewarded by this Licensee.	No change	5	Ethical behaviour is rewarded by this Licensee
	Unethical behaviour is punished in this organisation	Wording change “Licensee” substituted for “Organisation” Order changed from q4 to q6	6,	Unethical behaviour is punished at this Licensee	No change to wording but italicise “unethical” to make it stand out from “ethical” for participants	*6*	*Unethical* behaviour is punished at this Licensee
	People of integrity are rewarded in this organisation		7.	People of integrity are rewarded at this Licensee	No change	7	People of integrity are rewarded at this Licensee
	Top managers in this organisation regularly show that they care about ethics	Order changed “Top” to “senior”	8.	Senior managers in this organisation regularly show that they care about ethics	No change	8	Senior managers in this organisation regularly show that they care about ethics
	Top managers of this	Words changed	9.	Senior managers at this	Delete word “good”	9	Senior managers at this

	organisation are models of unethical behaviour	and one inserted 'good" inserted before role and "senior' and 'licensee' used consistently with rest of instrument.		Licensee are good role models for unethical behaviour	to revert to original wording		Licensee are models of *unethical* behaviour
	Ethics Code requirements are consistent with informal organisational norms	Word inserted "our" inserted at front	10.	Our Ethics Code requirements are consistent with informal organisational norms	No change	10	Our Ethics Code requirements are consistent with informal organisational norms
B	**Employee Focussed Climate**			**Employee focus**	**No change**		
		Brand new question	11.	I talk enthusiastically to my friends about the Licensee as it is a great organisation to belong to.	No change	11	I talk enthusiastically to my friends about the Licensee as it is a great organisation to belong to.
	The most important concern is the good of all people in this organisation	Taken out Seen to be a double up					
	People are very concerned about what is generally best for employees in this organisation	Wording changes "Licensee" for "organisation" and omitted word	12.	People are very concerned about what is best for this Licensee's employees.	Add word "generally' to conform with original wording	12	People are very concerned about what is generally best for this Licensee's employees

		'generally' which was inadvertent					
	Our major consideration is what is best for everyone in this organisation	Wording changes Used 'adviser for "everyone' because interested to see if advisers seen as elite group	13.	Our major consideration is what is best for the advisers of this Licensee.	Substitute "everyone at" for "advisers of" to conform with original version	13	Our major consideration is what is best for everyone at this Licensee.
	What is best for each individual is a primary concern in this organisation	Taken out					
		New question	14.	I feel very loyal to this organisation.	No change	14	I feel very loyal to this organisation.
	In this organisation, people look out for each other's good	Wording changes Licensee" for "organisation" and "welfare" for "good" because suits Australian vernacular.	15.	At this Licensee, people look out for each other's welfare.	No change	15	At this Licensee, people look out for each other's welfare.
	It is expected that each individual is cared for when making decisions here	Taken out					

		Brand new question	16	My values and the Licensee's organisational values are very similar.	No change	16	My values and the Licensee's organisational values are very similar.
C	**Community-focussed Climate**	**Change to heading Ensure consistency with other headings**		**Community**	**No change**		
	The effect of decisions on the customer and the public is of primary concern in this organisation.	Word changes "client' used for customer to bring into AFSL environment. "Licensee' for "Organisation"	17.	The effect of decisions on the client is of primary concern at this Licensee.	No change	17	The effect of decisions on the client is of primary concern at this Licensee
	People in this organisation are actively concerned about the customer's and the public's interests	Taken out Too many questions and feels like a double up					
	It is expected that you will do what is right for the customer and the public.	Word changes Inserted the word 'always' and it could come out. Added reference to	18.	It is expected at this Licensee that you will always do what is right for the client and the public.	Order changed from 18 to question 19	19	It is expected at this Licensee that you will always do what is right for the client and the public

		"Licensee"					
	People in this organisation have a strong sense of responsibility to the outside community.	Word change Licensee for organisation.	19.	People at this Licensee have a strong sense of responsibility to the outside community.	Order changed from question 19 to 18	18	People at this Licensee have a strong sense of responsibility to the outside community
D	**Obedience to Authority**	**Change in heading To overcome perception heading would bias response in Australian context.**		**Locus of Control**	**No change**		
	The organisation demands obedience to authority figures, without question	Change in order No change to wording	22.	This organisation demands obedience to authority figures, without question	No change to wording Question numbering has changed from 22 to 20	20	This Licensee demands obedience to authority figures, without question
	People in this organisation are expected to do as they're told.	Word changes "as' deleted for "what", "Licensee' for 'organisation"	20.	People at this Licensee are expected to do what they are told.	Change "what they are" to "as they're" Change to numbering from 20 to 21	21	People at this Licensee are expected to do as they're told.
	The boss is always right in this organisation.	Word changes "Licensee' for	21.	The boss is always right at this Licensee.	Numbering of question has	22	The boss is always right at this Licensee.

		'organisation"			changed from 21 to 22		
		New question from Canadian study	23.	I am free to do my job in the way I see fit	We reversed the question's direction	23	I am not free to do my job in the way I see fit
E	**Code Implementation**			**Code Implementation**	**No change**		
	Employees are required to acknowledge that they have read and understood the ethics code	Taken out					
	The organisation has established procedures for employees to ask questions about its ethics code requirements	Word changes Change made to make it more relevant to AFSL environment	24.	The Licensee has established procedures for advisers to ask questions about its ethics requirements	No change	24	The Licensee has established procedures for advisers to ask questions about its ethics requirements
		New	25.	The Licensee relies on Codes of Ethics from professional associations rather than having its own.	Insert word 'code" to clarify meaning	25	The Licensee relies on Codes of Ethics from professional associations, rather than having its own Code.
	The Code of conduct is widely distributed throughout the organisation	Changed order Change made to make it more relevant to AFSL environment. Add word	26.	The internal Code of Ethics is widely distributed by the Licensee.	No change	26	The internal Code of Ethics is widely distributed by the Licensee

		'internal"					
	Employees are regularly required to assert that their actions are in compliance with the ethics code	Wording changes "Advisers" for 'employees"	27.	Advisers are regularly required to assert that their actions are in compliance with the Licensee's Code of Ethics	No change	27	Advisers are regularly required to assert that their actions are in compliance with the Licensee's Code of Ethics
F	**Self Interest Climate**	**Change to heading To avoid possibility of bias in Australian Context**		**Situational Context**	**No change**		
	In this organisation, people protect their own interests above other considerations.	No change	28.	At this Licensee, people protect their own interests above other considerations.	No change	28	At this Licensee, people protect their own interests above other considerations.
		new	29.	People are expected to do anything to further the Licensee's interests.	No change	29	People are expected to do anything to further the Licensee's interests.
	People in this organisation are very concerned about what is best for themselves	Changed order No change to wording.	30.	People in this organisation are very concerned about what is best for themselves	No change	30	People in this organisation are very concerned about what is best for themselves
G	**Efficiency Climate**			**Efficiency**	**No change**		
	In this organisation, each person is expected above all to work efficiently.	No change	31.	At this Licensee, each person is expected above all to work efficiently.	No change	31	At this Licensee, each person is expected above all to work

							efficiently.
	The major responsibility of people in this organisation is to consider efficiency first	Taken out because too much like other questions			Reinserted as question 32	32	The major responsibility of people at this Licensee is to consider efficiency first
	The most efficient way is always the right way in this organisation.	Word change “Licensee’ for ‘Organisation”	32.	The most efficient way is always the right way at this Licensee.	Reverse the order of the question with question 33	34	The most efficient way is always the right way at this Licensee.
	Efficient solutions to problems are always sought here	No change	33.	Efficient solutions to problems are always sought here	Reverse the order of the question with question 34	33	Efficient solutions to problems are always sought here
H	**Rules and Procedures Climate**			**Rules and Procedures**	**No change**		
	It is important to strictly follow the organisation’s rules and procedures	Taken out because duplicate question			Reinsert this question	35	It is important to strictly follow the Licensee’s rules and procedures
	Everyone is expected to stick by company rules and procedures	Word change “Licensee’ for ‘company”	34.	Everyone is expected to stick by Licensee’s rules and procedures.	No change except question number has altered	36	Everyone is expected to stick by the Licensee’s rules and procedures
		New	35.	At this Licensee, any conflict between the organisations procedures and external professional standards are resolved in favour of the Licensee.	Taken out of main survey		
I	**Personal Ethics Climate**			**Personal Ethics**	**No change**		
	In this organisation, people are guided by their own personal ethics.	Word change licensee’ for ‘organisation”	36.	At this Licensee, people are guided by their own personal ethic.			

	Each person in this organisation decides for themselves what is right and wrong.	“licensee’ for ‘organisation”	37.	Each person at this Licensee decides for themselves what is right and wrong.			
	The most important concern in this organisation is each person’s sense of right and wrong	Taken out					
		new	38.	The structure of my work environment allows me to fully express myself as a professional.	Change to question number only from 38 to 37	37	The structure of my work environment allows me to fully express myself as a professional
		New from the Canadian study	39	It is important to always act in an ethical manner	Change to question number only from 39 to 38	38	It is important to always act in an ethical manner
					New question	39	The structure of my work allows me to act in an ethical manner
J	**Law and Professional Codes Climate**		**9.**	**Law and Professional Codes**			
	In this organisation, people are expected to comply with the law and professional standards over and above other considerations.	Word changes “organisation’ for “Licensee” – split the question into two to ask about law and professional	40.	People at this Licensee are expected to comply with the law over and above other considerations.	No change	40	People at this Licensee are expected to comply with the law over and above other considerations.

		standards separately.					
	In this organisation people are expected to strictly follow legal or professional standards	Taken out			Reinserted as question number 42	42	At this Licensee, people are expected to strictly follow legal or professional standards
		new	41.	At this Licensee, the professional standards associated with financial planning are the major consideration.	No change	41	At this Licensee, the professional standards associated with financial planning are the major consideration.

APPENDIX C.10: LIST OF FINANCIAL PLANNING EXPERTS USED IN THE DEVELOPMENT OF FAIT CASE SCENARIOS

Adj. Prof. Wesley McMaster CFP®, FFPA

Wes McMaster is well known in the financial planning industry throughout Australia. He is highly sought after as a consultant in the financial services industry on issues associated with financial advice and financial advice businesses.

He built his own financial planning business and managed it for 16 years. He was also the CEO of two large national financial planning businesses owned by ING.

He is a former Chairman of the Financial Planning Association of Australia. During his period as a director of the FPA, he contributed a great deal to the thinking that has emerged in the Financial Services Reform Act governing financial advice in Australia. He represented Australia as a member of the International CFP Council for many years and in this position, contributed to the development of the CFP designation in South East Asia.

He trains business managers and financial planners and has assisted and advised many people in the establishment and management of financial advice businesses. Wes has also developed a reputation among the leading law firms in Australia as an expert in the rules governing financial advice.

His views are widely sought on trends in the delivery of financial advice and the management of financial advice businesses. Wes is also Adjunct Professor of Financial Planning at RMIT University and he is a Certified Financial Planner™.

Ian Heraud CFP®, FFPA

Ian has over 23 year's industry experience. He is a Fellow and Life member of the Financial Planning Association and is a past director of that body.

He served four years as Australia's director of the international Financial Planning Standards Board (FPSB) and represented Australia at the International Standards Organisation (ISO) when developing the international financial planning standard (ISO 22222).

Ian holds the Certified Financial Planner (CFP) designation and has a Diploma of Financial Planning (DFP).

He received the national DFP Dux prize for the class of 1996. Ian has also co-authored three books on superannuation and financial planning and regularly speaks on the subject at various conferences around the world.

John Hewison CFP®, FFPA, M FinPlan

John is founder and major equity partner in Hewison & Associates. He holds a Diploma in Financial Planning, and has completed a Masters Degree in Financial Planning. He is a recognised Certified Financial Planner™ (CFP®)

John is regarded as one of Australia's leading Private Client Advisers, and is often called on as a spokesperson for the Financial Planning Industry. He has played an active role in industry affairs throughout his career - spanning more than 25 years as Financial Planner.

John has held many esteemed positions within the FPA - the industry body for Financial Planners, including former Director and Chairman. In 2004 he was awarded FPA Life Membership for his outstanding contribution to the development of the profession.

John established Hewison & Associates in 1985 following a successful career in corporate management. The Hewison Business was first developed upon referral relationships with accounting and legal firms.

Leonie Henry BCom, FCPA (FPS), CFP®, FFPA

Leonie is the founder of Henry Financial Group and Chairman of the company. Leonie commenced as a financial adviser in 1985 and in that time has become one of Australia's best known and most well respected advisers. Well known for "giving back" to the profession, some of Leonie's major contributions include;

Committees

Chair. 2000, 2005 Financial Planning Association (FPA) National Principal members Conferences

Chair. 2002, 2003, 2004 FPA Qld State Conferences

Chair. 2006 FPA National Conference

Chair. Financial Planning Association. Audit and Risk Management Committee. 2006

Board memberships

Member FPA National Board. 2002-2006

APPENDIX C.11: RESEARCH QUESTIONNAIRE INSTRUMENTS

APPENDIX C.11.1: PILOT SURVEY INSTRUMENT

INFORMATION TO PARTICIPANTS:

We invite you to be a part of our study into the ethical decision making associated with financial planning in Australia. The study is being conducted at the Centre for International Corporate Governance Research, Victoria University, by June Smith, a Doctoral Candidate under the supervision of Professor Anona Armstrong and Professor Ronald Francis.

The study focusses on the professional aspects of financial planning advice. It will identify the ethical reasoning used by financial planners and compliance officers when making professional decisions. It will also investigate the factors that may be influencing these professionals in their ethical decision making and the ethical climate and culture within financial planning organisations.

Your participation is voluntary and will involve the completion of this survey questionnaire online. This will take approximately 40 to 45 minutes of your time.

Section 1 of the questionnaire asks you some demographic questions about your education, employment, remuneration, career experience, age and gender.

Section 2 of the questionnaire asks you some questions about the formal systems and procedures that you believe your Licensee has in place to assist you in your decision making and in understanding what your Australian Financial Services Licensee ("the Licensee") expects of you in relation to your conduct.

Section 3 of the questionnaire contains questions about the organizational characteristics of the Licensee you work for, consult to or are authorised to represent.

Section 4 of the questionnaire contains four ethical case scenarios. Each scenario is followed by a group of questions for you to answer.

Section 5 of the questionnaire allows you to provide any other comments or opinions you may have about current ethical issues facing the financial planning profession.

The study is not seeking to obtain sensitive information from you. You may choose not to answer any question you wish or withdraw from the study at any time. Your answers will also be kept confidential. Participants will not be identified by name in any published report from this study and all individual responses will be aggregated, as it is the overall findings and patterns in which we are interested.

We are unable to pay you for your participation. However, we are happy to provide you with a summary of the study's key findings if you are interested, upon completion.

Any queries about your participation in this project may be directed to Professor Anona Armstrong on (03) 9919 1315 or Professor Ronald Francis on (03) 9919 1212. If you have any queries or complaints about the way you have been treated, you may contact the Secretary, University Human Research Ethics Committee, Victoria University of Technology, PO Box 14428 MCMC, Melbourne, 8001, on (03) 9688 4710.

Thank you for your participation

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SECTION 1: DEMOGRAPHIC QUESTIONS

This section of the questionnaire asks you some demographic questions about your education, employment, remuneration, career experience, age and gender.

Please select the appropriate response from the drop down menu provided

Do you represent an Australian Financial Services Licensee in the provision of financial advice under the Corporations Act (2001)?	❑ Yes	❑ No

Do you hold the following role or roles within your Licensee?	❑ Financial Adviser	❑ Compliance Officer/Manager/ Consultant	❑ Responsible Officer	❑ Other (please specify)

Which type of Licensee do you work for or represent?	❑ Small firm that has it's own AFSL (0-10 Financial Planners)	❑ Medium firm that has it's own AFSL (10-50 Financial Planners)	❑ Large firm/Corporate (Banks; Retail; Insurance etc) (50+ Financial Planners)

Please state the highest education level that you have attained?	❑ Diploma of Financial Planning	❑ Advanced Diploma of Financial Planning	❑ Undergraduate degree	❑ Post graduate degree	❑ Other (please specify):

Do you hold a Professional Designation?	❑ CFP	❑ CA	❑ CPA	❑ Other (please specify)

Are you a member of any of the following Professional Associations?	❑ CPA Australia	❑ ICAA	❑ FPA	❑ NIBA	❑ SDIA	❑ Australian Compliance Institute	❑ None of the above

How are you primarily remunerated?	❑ Salary	❑Commissions	❑ Fees	❑ A combination of Commission & Fees

Number of years experience as a financial adviser or compliance officer	❑ 0 to 5	❑ 6 to 10	❑ 11 to 15	❑ 16 to 20	❑ > than 20

Please state your gender ❑ Male ❑ Female

Your Age ❑ 20 to 29 ❑ 30 to 39 ❑ 40 to 49 ❑ 50 to 59 ❑ 60+

In which State do you reside? ❑ VIC ❑ NSW ❑ SA ❑ WA ❑ QLD ❑ NT ❑ ACT

SECTION 2: SYSTEMS AND PROCEDURES					
The following questions concern the formal systems and procedures that are in place in your Licensee to assist you in making ethical decisions and in understanding what the Licensee expects of you in relation to your conduct. Please select the appropriate response.					
		Yes	**No**		**Don't know**
1.	Does your Licensee have a published set of organisational values?	❑	❑		❑
2.	Does your Licensee have an internal Code of Ethics/Conduct?	❑	❑		❑
3.	Does the Licensee provide training for advisers in ethics and ethical decision making?	❑	❑		❑
4.	Is there regular organisational reporting on ethical matters?	❑	❑		❑
5.	Are matters related to ethical standards regularly communicated to you?	❑	❑		❑
6.	Does the Licensee have a whistle blowing policy?	❑	❑		❑
7.	Does the Licensee have enforcement mechanisms such as a staff/adviser disciplinary policy?	❑	❑		❑
8.	Does the Licensee's performance management system include reference to its ethical standards?	❑	❑		❑
9.	Does the Licensee have a formal system for rewarding people who achieve high levels of ethical conduct?	❑	❑		❑

SECTION 3: ETHICAL CLIMATE AND CULTURE
The following questions relate to the ethical climate and culture of the Australian Financial Services Licensee (the Licensee) for which you work or which you are authorised to represent. Please indicate your spontaneous response by circling the most appropriate number on the 7 point scale provided. **Please answer the questions in terms of how it really is not how you would prefer it to be.**

		Strongly Disagree			Neither Agree nor Disagree			Strongly Agree
A.	**The Environment**							
1.	The Management of this Licensee disciplines unethical behaviour when it occurs.	1	2	3	4	5	6	7
2.	People at this Licensee perceive that the Advisers who engage in unethical behaviour still get formal organisational rewards.	1	2	3	4	5	6	7
3.	The senior managers of this Licensee guide decision making in an ethical environment.	1	2	3	4	5	6	7
4.	The Licensee's Code of Ethics serves only to maintain the organisation's public image.	1	2	3	4	5	6	7
5.	Ethical behaviour is rewarded by this Licensee.	1	2	3	4	5	6	7
6.	Unethical behaviour is punished at this Licensee	1	2	3	4	5	6	7
7.	People of integrity are rewarded at this Licensee	1	2	3	4	5	6	7
8.	Senior managers in this organisation regularly show that they care about ethics	1	2	3	4	5	6	7
9.	Senior managers at this Licensee are models of	1	2	3	4	5	6	7

	unethical behaviour							
10.	Our Ethics Code requirements are consistent with informal organisational norms	1	2	3	4	5	6	7
B	**Employee focus**							
11.	I talk enthusiastically to my friends about the Licensee as it is a great organisation to belong to.	1	2	3	4	5	6	7
12.	People are very concerned about what is best for this Licensee's employees.	1	2	3	4	5	6	7
13.	Our major consideration is what is best for the advisers of this Licensee.	1	2	3	4	5	6	7
14.	I feel very loyal to this organisation.	1	2	3	4	5	6	7
15.	At this Licensee, people look out for each other's welfare.	1	2	3	4	5	6	7
16.	My values and the Licensee's organisational values are very similar.	1	2	3	4	5	6	7
C	**Community**							
17.	The effect of decisions on the client is of primary concern at this Licensee.	1	2	3	4	5	6	7
18.	It is expected at this Licensee that you will always do what is right for the client and the public.	1	2	3	4	5	6	7
19.	People at this Licensee have a strong sense of responsibility to the outside community.	1	2	3	4	5	6	7
D	**Locus of Control**							
20.	People at this Licensee are expected to do as they're	1	2	3	4	5	6	7

	told.							
21.	The boss is always right at this Licensee.	1	2	3	4	5	6	7
22.	This organisation demands obedience to authority figures, without question	1	2	3	4	5	6	7
23.	I am free to do my job in the way I see fit	1	2	3	4	5	6	7
E	**Code Implementation**							
24	The Licensee has established procedures for advisers to ask questions about its ethics requirements	1	2	3	4	5	6	7
25.	The Licensee relies on Codes of Ethics from professional associations rather than having its own.	1	2	3	4	5	6	7
26.	The internal Code of Ethics is widely distributed by the Licensee.	1	2	3	4	5	6	7
27	Advisers are regularly required to assert that their actions are in compliance with the Licensee's Code of Ethics	1	2	3	4	5	6	7
F	**Situational Context**							
28.	At this Licensee, people protect their own interests above other considerations.	1	2	3	4	5	6	7
29.	People are expected to do anything to further the Licensee's interests.	1	2	3	4	5	6	7
30.	People in this organisation are very concerned about what is best for themselves	1	2	3	4	5	6	7
G	**Efficiency**							
31.	At this Licensee, each person is expected above all to work efficiently.	1	2	3	4	5	6	7

32.	The most efficient way is always the right way at this Licensee.	1	2	3	4	5	6	7
33.	Efficient solutions to problems are always sought here	1	2	3	4	5	6	
H	**Rules and Procedures**							
34.	Everyone is expected to stick by Licensee's rules and procedures.	1	2	3	4	5	6	7
35.	At this Licensee, any conflict between the organisation's procedures and external professional standards are resolved in favour of the Licensee.	1	2	3	4	5	6	7
I	**Personal Ethics**							
36.	At this Licensee, people are guided by their own personal ethics.	1	2	3	4	5	6	7
37.	Each person at this Licensee decides for themselves what is right and wrong.	1	2	3	4	5	6	7
38.	The structure of my work environment allows me to fully express myself as a professional.	1	2	3	4	5	6	7
39	It is important to always act in an ethical manner	1	2	3	4	5	6	7
J	**Law and Professional Codes**							
40.	People at this Licensee are expected to comply with the law over and above other considerations.	1	2	3	4	5	6	7
41.	At this Licensee, the professional standards associated with financial planning are the major consideration.	1	2	3	4	5	6	7

SECTION 4: The Financial Planning Ethics Issues Test

This section of the questionnaire contains four ethical case scenarios. Each scenario is then followed by a group of 12. ***PLEASE NOTE: YOU ARE NOT BEING ASKED TO SELECT A "CORRECT" ACTION.*** **Rather your task is to rate and then rank those issues you believe the adviser should take into account when making a decisiosn in each case.**

SCENARIO 1: PLEASE READ THE FOLLOWING SCENARIO AND THEN RESPOND TO THE QUESTIONS IN PARTS A, B and C

Ros is a professionally qualified financial planner and has recently joined a successful firm of financial planners. Ros is very happy in her job, and with more experience she has been promised a promotion to senior financial planner.

After commencing with the firm, she was told that if any clients require legal advice, they must be referred to a firm of solicitors who own the office building. The solicitor's professional fees are substantially higher than those of other solicitors offering similar services, however the firm of solicitors gives Ros employer a 30% reduction off their rental as a "quid pro quo". The firm's policy is that Ros is not to mention to her clients either the fact that the solicitor's fees are higher, nor that there is a rental arrangement between the firm and the solicitors.

Ros is currently dealing with Fay who requires the services of a solicitor to draw up a new will, as well as to take advice on the preparation of a power of attorney. Ros is considering sending her client to the firm.

PART A

What should Ros do? Do you favour the action of sending the client to the solicitor's firm?

______ Yes __________ Can't decide _______ No

PART B

In the process of making a decision as to whether or not to refer the client to the solicitor's firm, many issues need to be considered by Ros. Below is a list of some of those issues. Please rate the issues in terms of how important you think they are to Ros' decision. You can rate them by circling one of the numbers on the 5 point scale provided (5= Great importance, 4 = Important, 3 = some Importance, 2 = Little Importance and 1 = No Importance).

	Issue	No Importance	Little Importance	Some Importance	Important	Great Importance
1	Whether the client can afford	1	2	3	4	5

	the solicitor's fees.					
2	Would the referral be consistent with what Ros thinks is right?	1	2	3	4	5
3	What are the consequences for Ros if she goes against the firm's policy?	1	2	3	4	5
4	What is best for Ros' firm?	1	2	3	4	5
5	Do the firm's commercial arrangements impact on Ros' professional reputation?	1	2	3	4	5
6	Whether Ros' job may be threatened if she refuses to refer the client.	1	2	3	4	5
7	Whether someone in Ros' position should object to the firm's practice?	1	2	3	4	5
8	Whether the fiduciary duty Ros has is higher to her employer or the client?	1	2	3	4	5
9	What factors are relevant in determining Ros' professional responsibility?	1	2	3	4	5
10	Whether it is unlawful to refer the client to this firm without disclosing the	1	2	3	4	5

	relationship.					
11	Would the client really care about the arrangement provided she got appropriate legal advice?	1	2	3	4	5
12	What action would Ros' co-workers expect her to take?	1	2	3	4	5

PART C

Now please rank the top four issues you believe Ros should take into account when making her decision. Please rank your top four in order using the numbers 1, 2, 3 and 4, with the number 1 being the most important and number 4 being the fourth most important.

	Issue	**Ranking**
1	Whether the client can afford the solicitor's fees.	
2	Would the referral be consistent with what Ros thinks is right?	
3	What are the consequences for Ros if she goes against the firm's policy?	
4	What is best for Ros' firm?	
5	Do the firm's commercial arrangements impact on Ros' professional reputation?	
6	Whether Ros' job may be threatened if she refuses to refer the client.	
7	Whether someone in Ros' position should object to the firm's practice?	
8	Whether the fiduciary duty Ros has is higher to her employer or the client?	
9	What factors are relevant in determining Ros' professional responsibility?	
10	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	
11	Would the client really care about the arrangement provided she got appropriate legal advice?	
12	What action would Ros' co-workers expect her to take?	

SCENARIO 2 : PLEASE READ THE FOLLOWING SCENARIO AND THEN RESPOND TO THE QUESTIONS IN PART A, PART B AND PART C.

Andrew has been a financial planner in a medium sized town, Olbury, for several years as an authorised representative of a large financial planning firm Finance R Us. Andrew sees Natalie and Tony Short who need advice on their superannuation of $110,000 which is currently held in a retail fund and advice on whether they could invest their life savings of $45,000, currently held in term deposits and cash, at a higher level of interest. The Shorts are 62 and 56 respectively and are both unemployed.

Andrew's Licensee has asked Andrew to find clients who match a particular profile and recommend they move from their existing superannuation fund to a another fund, administered under a new platform environment, which has coincidentally been recently badged by Andrew's firm. The Shorts suit this profile. Andrew could recommend the clients switch all current investments to be managed within the badged platform environment. He could also prepare file notes which demonstrate that the product and platform match their risk profile and objectives and are reasonably suited, even though Andrew knows it does not suit all of their requirements and the exit fees from the existing fund are significant. Andrew is unsure whether he should proceed with the recommendation and switch all investments into the new product or recommend the $45,000 be placed into the existing superannuation environment or other investments.

PART A

What should Andrew do? Do you favour the action to switch the investments?

_________ Yes _________ Can't decide _______ No

PART B

In the process of making a decision as to whether or not to recommend a switch in investment, many issues need to be considered by Andrew. Below is a list of some of those issues. Please rate the issues in terms of how important you think they are to Andrew's decision. You can rate them by circling one of the numbers on the 5 point scale provided (5= Great importance, 4 = Important, 3 = some Importance, 2 = Little Importance and 1 = No Importance).

	Issue	**No Importance**	**Little Importance**	**Some Importance**	**Important**	**Great Importance**
1	Whether it is possible to make the switch recommendation without the clients being worse off?	1	2	3	4	5
2	Will the decision have any effect on Andrew's	1	2	3	4	5

	reputation in Olbury?					
3	Whether Andrew is more responsible to his Licensee or his client	1	2	3	4	5
4	Would a switch recommendation violate the interests of the other citizens of Olbury?	1	2	3	4	5
5	Whether other Licensees recommend switches to in house products	1	2	3	4	5
6	Is an exit fee product appropriate in the circumstances?	1	2	3	4	5
7	Would it violate the values that Andrew has set himself for his own personal standards of behaviour?	1	2	3	4	5
8	What are the risks to Andrew in making the switch recommendation?	1	2	3	4	5
9	Are the couple actively seeking employment?	1	2	3	4	5
10	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general?	1	2	3	4	5

11	Does a switching recommendation constitute a breach of Andrew's professional obligations?	1	2	3	4	5
12	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	1	2	3	4	5

PART C

Now please rank the top four issues you believe Andrew should take into account when making his decision. Please rank your top four in order using the numbers 1, 2, 3 and 4, with the number 1 being the most important and number 4 being the fourth most important.

	Issue	**Ranking**
1	Whether it is possible to make the switch recommendation without the clients being worse off?	
2	Will the decision have any effect on Andrew's reputation in Olbury?	
3	Whether Andrew is more responsible to his Licensee or his client	
4	Would a switch recommendation violate the interests of the other citizens of Olbury?	
5	Whether other Licensees recommend switches to in house products	
6	Is an exit fee product appropriate in the circumstances?	
7	Would it violate the values that Andrew has set himself for his own personal standards of behaviour?	
8	What are the risks to Andrew in making the switch recommendation?	
9	Are the couple actively seeking employment?	
10	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general?	
11	Does a switching recommendation constitute a breach of Andrew's professional obligations?	
12	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	

SCENARIO 3: PLEASE READ THE FOLLOWING SCENARIO AND THEN RESPOND TO THE QUESTIONS IN PARTS A, B AND C.

Kevin is 58 years old and a client of Jessica's. He wants a significant increase in his investment portfolio before he retires. He also wants to make the most of a bear market and buy in when shares are low. To achieve both objectives, Jessica advises Kevin to take out a margin loan, to increase the amount he has to invest in an equities portfolio. Jessica's Licensee has placed a margin lending product called "Super Dooper" on its Approved product list. Super Dooper is a margin loan that looks and behaves like an instalment warrant and is also cheaper then other margin loans.

The product has a higher LVR then other margin lenders, being 50% on listed investment companies. Other lenders are only prepared to lend 40%. The product also has an absolute repayment obligation of the borrowed amount in 12 months, but without the usual insurance cost charged by the investment bank that actually buys the stock – usually around 3% per annum. At Kevin's insistence, Jessica sets up a 50:50 leveraged portfolio in a self managed superannuation fund structure. Jessica advises Kevin that her advisory fees are $5,000 per year. She also knows the margin lender will pay her and the Licensee a 1% fee on the total amount invested. This is in addition to the trail commission of 0.5% that she will receive. Jessica tries to rebate the trail to Kevin, but this turns out not to be possible.

PART A

What should Jessica do? Do you favour the view that Jessica is entitled to all of the fees that will be obtained in this matter?

_________ Yes   ___________Can't decide   _________No

PART B

In the process of making a decision as to whether or not Jessica is entitled to the fees, many issues need to be considered by her. Below is a list of some of those issues. Please rate the issues in terms of how important you think they are to Jessica's decision. You can rate them by circling one of the numbers on the 5 point scale provided (5= Great importance, 4 = Important, 3 = some Importance, 2 = Little Importance and 1 = No Importance).

	Issue	No importance	Little importance	Some importance	Important	Great importance
1	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and recommend	1	2	3	4	5

	another strategy?					
2	What is in the firm's interests?	1	2	3	4	5
3	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	1	2	3	4	5
4	What is fair remuneration for work done?	1	2	3	4	5
5	Are any other advisers providing similar services for a similar fee structure?	1	2	3	4	5
6	Would Jessica's decision be consistent with what she believes is just?	1	2	3	4	5
7	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	1	2	3	4	5
8	Whether fee structures impact on the profession's reputation within society.	1	2	3	4	5
9	Whether the investment is viable given the fee structure?	1	2	3	4	5
10	Jessica's ability to continue in practice and meet her own financial obligations?	1	2	3	4	5
11	Whether Kevin	1	2	3	4	5

	understands the level of service and what it will cost.					
12	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the strategy.	1	2	3	4	5

PART C

Now please rank the top four issues you believe Jessica should take into account when making her decision. Please rank your top four in order using the numbers 1, 2, 3 and 4, with the number 1 being the most important and number 4 being the fourth most important.

	Issue	**Ranking**
1	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and recommend another strategy?	
2	What is in the firm's interests?	
3	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	
4	What is fair remuneration for work done?	
5	Are any other advisers providing similar services for a similar fee structure?	
6	Would Jessica's decision be consistent with what she believes is just?	
7	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	
8	Whether fee structures impact on the profession's reputation within society.	
9	Whether the investment is viable given the fee structure?	
10	Jessica's ability to continue in practice and meet her own financial obligations?	
11	Whether Kevin understands the level of service and what it will cost.	
12	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the strategy.	

SCENARIO 4: PLEASE READ THE FOLLOWING SCENARIO AND THEN RESPOND TO THE QUESTIONS IN PARTS A, B and C

Nicholas is visited by new clients Janelle and Greg, who advise him they have left their previous financial planner due to what they describe as a "personality conflict". That planner is very well known and liked in the profession and is a representative of Nicholas' Licensee, in another office. Nicholas knows him socially and professionally.

Nicholas reviews the portfolio and finds that the previous advice included a recommendation that the clients' self managed superannuation fund invest $50,000 in Bay Land Mezze Pty Ltd. It was also recommended that Janelle invest $50,000 personally in that company out of $80,000 she had to invest. Bay Land Mezze Pty Ltd belongs to a Property Development Group and provided finance for the purpose of funding property developments in a capital city. At the time the advice was given, the company had a successful history of completion of projects and repayment to investors. In addition, Bay Land Mezze Pty Ltd had a second ranked mortgage over the development properties it financed and a second ranked and floating Charge over the Group itself. Greg is 66 years old and Janelle is 58. Both are assessed by Nicholas as being very cautious investors. A promissory note was issued to Janelle and G & J superannuation fund. The overall investment with Bay Land Mezze Pty Ltd and its ventures represented 12.5% of their overall portfolio. Nicholas' investigations reveal the company has just gone into liquidation.

PART A

What should Nicholas do? Do you favour the view that Nicholas should report the matter to his Licensee?

_________ Yes ___________Can't decide _________No

PART B

In the process of making a decision as to whether or not the matter should be reported to his Licensee, many issues need to be considered by Nicholas. Below is a list of some of these issues. Please rate the issues in terms of how important you think they are to Nicholas' decision. You can rate them by circling one of the numbers on the 5 point scale provided (5= Great importance, 4 = Important, 3 = some Importance, 2 = Little Importance and 1 = No Importance).

	Issue	**No importance**	**Little importance**	**Some importance**	**Important**	**Great importance**
1	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the	1	2	3	4	5

	previous adviser?					
2	What research did the previous adviser do?	1	2	3	4	5
3	Is there also an ethical breach that should be reported to a professional body?	1	2	3	4	5
4	Does Nicholas have the expertise to review the previous adviser's advice?	1	2	3	4	5
5	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	1	2	3	4	5
6	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	1	2	3	4	5
7	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	1	2	3	4	5
8	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	1	2	3	4	5
9	How will Nicholas' actions be perceived by other advisers within the Licensee?	1	2	3	4	5
10	Does Nicholas	1	2	3	4	5

	have a professional duty to protect other clients of the Licensee who may be affected?					
11	Will it have an adverse effect on Nicholas' relationship with the other adviser?	1	2	3	4	5
12	What impact will it have on Nicholas' reputation within the Licensee?	1	2	3	4	5

PART C

Now please rank the top four issues you believe Nicholas should take into account when making his decision. Please rank your top four in order using the numbers 1, 2, 3 and 4, with the number 1 being the most important and number 4 being the fourth most important.

	Issue	**Ranking**
1	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the previous adviser?	
2	What research did the previous adviser do?	
3	Is there also an ethical breach that should be reported to a professional body?	
4	Does Nicholas have the expertise to review the previous adviser's advice?	
5	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	
6	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	
7	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	
8	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	
9	How will Nicholas' actions be perceived by other advisers within the Licensee?	
10	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	
11	Will it have an adverse effect on Nicholas' relationship with the other adviser?	
12	What impact will it have on Nicholas' reputation within the Licensee?	

SECTION 5: OTHER ISSUES

This section is designed to provide any other comments or opinions you may have about the current ethical issues facing financial planning, ethical issues facing your Licensee or your business in general.

THANK YOU FOR YOUR PARTICIPATION

APPENDIX C.11.2 MAIN RESEARCH QUESTIONNAIRE

INFORMATION TO PARTICIPANTS VIA EMAIL:

Earn an Ethics CPD point

We invite you to complete a research survey/questionnaire as part of our study into ethical decision making in financial planning in Australia. Participation in this survey entitles you to one ethics CPD point accredited by the Financial Planning Association of Australia (FPA).

The study is being conducted at the Centre for International Corporate Governance Research, Victoria University, by June Smith, a Doctoral Candidate under the supervision of Professor Anona Armstrong and Professor
Ronald Francis. It is being undertaken in conjunction with the Argyle Partnership, Lawyers and the results will also form part of a broader project on professionalism in financial planning being undertaken by the FPA.

Your participation is voluntary and will involve the completion of this survey questionnaire online. This will take approximately 50 to 55 minutes of your time. The cpd point has been allocated to reflect this time commitment by you.

To access the survey please follow this link:

We need to insert the link here

If you are interrupted or need to leave the survey for any reason, you can save your survey responses. This will allow you to return to the survey and complete it at a later time.

The study is not seeking to obtain sensitive information from you. You may choose not to answer any question you wish or withdraw from the study at any time. Your answers will also be kept confidential. Participants will
Not be identified by name in any published report from this study and all individual responses will be aggregated, as it is the overall findings and patterns in which we are interested.

Any queries about your participation in this project may be directed to Professor Anona Armstrong on (03) 9919 1315 or Professor Ronald Francis on (03) 9919 1212. If you have any queries or complaints about the way
you have been treated; you may contact the Secretary, University Human Research Ethics Committee, Victoria University of Technology, PO Box 14428 MCMC, Melbourne, 8001, on (03) 9688 4710.

INFORMATION: INTRODUCTION TO THE SURVEY:

This questionnaire focusses on the professional aspects of financial planning advice. It will identify the ethical reasoning used by financial planners and compliance officers when making professional decisions. It will also investigate the factors that may be influencing these professionals in their ethical decision making and the ethical climate and culture within financial planning organisations.

Section 1 of the questionnaire asks you some demographic questions about your education, employment, remuneration, career experience, age and gender.

Section 2 of the questionnaire asks you some questions about the formal systems and procedures that you believe the Australian Financial Services Licensee ("the Licensee") you work for, consult to or are authorised to represent,
has in place to assist you in your decision making.

Section 3 of the questionnaire contains questions about the organizational characteristics of your Licensee and your perceptions of what the Licensee expects of you in relation to your conduct.

Section 4 of the questionnaire contains four case scenarios. Each scenario is followed by a group of questions for you to answer.

Section 5 of the questionnaire allows you to provide any other comments or opinions you may have about current ethical issues facing the financial planning profession.

If you are interrupted or need to leave the survey for any reason, you can save your survey responses. This will allow you to return to the survey and complete it at a later time.

The study is not seeking to obtain sensitive information from you. You may choose not to answer any question you wish or withdraw from the study at any time. Your answers will also be kept confidential. Participants will not be identified by name in any published report from this study and all individual responses will be aggregated, as it is the overall findings and patterns in which we are interested.

Completion of this questionnaire entitles you to one continuing professional development point for Generic Knowledge (Ethics), accredited by the Financial Planning Association of Australia. The accreditation number is 003323.

We are also happy to provide you with a summary of the study's key findings if you are interested.

Any queries about your participation in this project may be directed to Professor Anona Armstrong on (03) 9919 1315 or Professor Ronald Francis on (03) 9919 1212. If you have any queries or complaints about the way you have been treated, you may contact the Secretary, University Human Research Ethics Committee, Victoria University of Technology, PO Box 14428 MCMC, Melbourne, 8001, on (03) 9688 4710.

Thank you for your participation.

SECTION 1: DEMOGRAPHIC QUESTIONS

This section of the questionnaire asks you some demographic questions about your education, employment, remuneration, career experience, age and gender.

Do you represent an Australian Financial Services Licensee in the provision of financial advice under the Corporations Act (2001)?	❑ Yes	❑ No					
Do you hold the following role or roles within your Licensee?	❑ Financial Adviser	❑ Compliance Officer/Manager/ Consultant	❑ Responsible Officer	❑ Other (please specify)			
Which type of Licensee do you work for or represent?	❑ Small firm that has it's own AFSL (0-10 Financial Planners)	❑ Medium firm that has it's own AFSL (10-50 Financial Planners)	❑ Large firm/Corporate (Banks; Retail; Insurance etc) (50+ Financial Planners)				
Please state the highest education level that you have attained?	❑ Diploma of Financial Planning	❑ Advanced Diploma of Financial Planning	❑ Undergraduate degree	❑ Post graduate degree	❑ Other (please specify):		
Do you hold a Professional Designation?	❑ CFP	❑ CA	❑ CPA	❑ Other (please specify)			
Are you a member of any of the following Professional Associations?	❑ CPA Australia	❑ ICAA	❑ FPA	❑ NIBA	❑ SDIA	❑ Australian Compliance Institute	❑ None of the above
How are you primarily remunerated?	❑ Salary	❑Commissions	❑ Fees	❑ A combination of Commission & Fees			
Number of years experience as a financial adviser or compliance officer	❑ 0 to 5	❑ 6 to 10	❑ 11 to 15	❑ 16 to 20	❑ > than 20		
Please state your gender	❑ Male	❑ Female					
Your Age	❑ 20 to 29	❑ 30 to 39	❑ 40 to 49	❑ 50 to 59	❑ 60+		

In which State do you reside?	❑ VIC	❑ NSW	❑ SA	❑ WA	❑ QLD	❑ TAS	❑ NT	❑ ACT

		Yes	**No**	**Don't know**
1.	Does your Licensee have a published set of organisational values?	❑	❑	❑
2.	Does your Licensee have an internal Code of Ethics/Conduct?	❑	❑	❑
3.	Does the Licensee provide training for advisers in ethics and ethical decision making?	❑	❑	❑
4.	Is there regular organisational reporting on ethical matters?	❑	❑	❑
5.	Are matters related to ethical standards regularly communicated to you?	❑	❑	❑
6.	Does the Licensee have enforcement mechanisms such as a staff/adviser disciplinary policy?	❑	❑	❑
7.	Does the Licensee have a whistle blowing policy?	❑	❑	❑
8.	Does the Licensee's performance management system include reference to its ethical standards?	❑	❑	❑
9.	Does the Licensee have a formal system for rewarding people who achieve high levels of ethical conduct?	❑	❑	❑

CONGRATULATIONS ON COMPLETING SECTION 2. SECTION 3 SHOULD TAKE YOU APPROXIMATELY 5 TO 6 MINUTES TO COMPLETE.

SECTION 3: ETHICAL CLIMATE AND CULTURE

The following questions relate to the ethical climate and culture of the Australian Financial Services Licensee (the Licensee) for which you work or which you are authorised to represent. Please indicate your spontaneous response by circling the most appropriate number on the 7 point scale provided.

Please answer the questions in terms of how it really is not how you would prefer it to be.

		Strongly Disagree			Neither Agree nor Disagree			Strongly Agree
A.	**The Environment**							
1.	The Management of this Licensee disciplines *unethical* behaviour when it occurs.	1	2	3	4	5	6	7
2.	People at this Licensee perceive that those who engage in *unethical* behaviour still get formal organisational rewards.	1	2	3	4	5	6	7
3.	The senior managers of this Licensee guide decision making in an ethical environment.	1	2	3	4	5	6	7
4.	The Licensee's Code of Ethics serves only to maintain the organisation's public image.	1	2	3	4	5	6	7
5.	Ethical behaviour is rewarded by this Licensee.	1	2	3	4	5	6	7
6.	*Unethical* behaviour is punished at this Licensee	1	2	3	4	5	6	7
7.	People of integrity are rewarded at this Licensee	1	2	3	4	5	6	7
8.	Senior managers in this organisation regularly show that they care about ethics	1	2	3	4	5	6	7
9.	Senior managers at this Licensee are models of	1	2	3	4	5	6	7

	unethical behaviour							
10.	Our Ethics Code requirements are consistent with informal organisational norms	1	2	3	4	5	6	7
B	**Employee focus**							
11.	I talk enthusiastically to my friends about the Licensee as it is a great organisation to belong to.	1	2	3	4	5	6	7
12.	People are very concerned about what is generally best for this Licensee's employees.	1	2	3	4	5	6	7
13.	Our major consideration is what is best for everyone at this Licensee.	1	2	3	4	5	6	7
14.	I feel very loyal to this organisation.	1	2	3	4	5	6	7
15.	At this Licensee, people look out for each other's welfare.	1	2	3	4	5	6	7
16.	My values and the Licensee's organisational values are very similar.	1	2	3	4	5	6	7
C	**Community**							
17.	The effect of decisions on the client is of primary concern at this Licensee.	1	2	3	4	5	6	7
18.	People at this Licensee have a strong sense of responsibility to the outside community.	1	2	3	4	5	6	7
19.	It is expected at this Licensee that you will always do what is right for the client and the public.	1	2	3	4	5	6	7
D	**Locus of Control**							

20.	This Licensee demands obedience to authority figures, without question	1	2	3	4	5	6	7
21.	People at this Licensee are expected to do as they're told.	1	2	3	4	5	6	7
22.	The boss is always right at this Licensee.	1	2	3	4	5	6	7
23.	I am not free to do my job in the way I see fit	1	2	3	4	5	6	7

E	**Code Implementation**							
24	The Licensee has established procedures for advisers to ask questions about its ethics requirements	1	2	3	4	5	6	7
25.	The Licensee relies on Codes of Ethics from professional associations, rather than having its own Code.	1	2	3	4	5	6	7
26.	The internal Code of Ethics is widely distributed by the Licensee.	1	2	3	4	5	6	7
27	Advisers are regularly required to assert that their actions are in compliance with the Licensee's Code of Ethics	1	2	3	4	5	6	7
F	**Situational Context**							
28.	At this Licensee, people protect their own interests above other considerations.	1	2	3	4	5	6	7
29.	People are expected to do anything to further the Licensee's interests.	1	2	3	4	5	6	7
30.	People in this organisation are very concerned about what is best for themselves	1	2	3	4	5	6	7
G	**Efficiency**							
31.	At this Licensee, each person is expected above all to work efficiently.	1	2	3	4	5	6	7
32.	The major responsibility of people at this Licensee is to consider efficiency first	1	2	3	4	5	6	7
33.	Efficient solutions to problems are always sought here	1	2	3	4	5	6	7
34.	The most efficient way is always the right way at this	1	2	3	4	5	6	7

Licensee.

H	**Rules and Procedures**							
35.	It is important to strictly follow the Licensee's rules and procedures	1	2	3	4	5	6	7
36.	Everyone is expected to stick by the Licensee's rules and procedures.	1	2	3	4	5	6	7
I	**Personal Ethics**							
37.	The structure of my work environment allows me to fully express myself as a professional.	1	2	3	4	5	6	7
38.	It is important to always act in an ethical manner	1	2	3	4	5	6	7
39	The structure of my work allows me to act in an ethical manner	1	2	3	4	5	6	7
J	**Law and Professional Codes**							
40.	People at this Licensee are expected to comply with the law over and above other considerations.	1	2	3	4	5	6	7
41.	At this Licensee, the professional standards associated with financial planning are the major consideration.	1	2	3	4	5	6	7
42.	At this Licensee, people are expected to strictly follow legal or professional standards	1	2	3	4	5	6	7

CONGRATULATIONS ON COMPLETING SECTION 3. THE CASE SCENARIOS IN SECTION 4 SHOULD TAKE YOU APPROXIMATELY 15 - 20 MINUTES TO COMPLETE

SECTION 4: The Financial Planning Ethics Issues Test

This section of the questionnaire contains four ethical case scenarios. Each scenario is then followed by a group of questions, outlined in Parts A, B and C. ***PLEASE NOTE: YOU ARE <u>NOT</u> BEING ASKED TO SELECT A "CORRECT" ACTION IN PARTS B AND C.*** **Rather, your task is to rate the 12 issues you have been given in Part B of each scenario from "very important" to "not important". Then, in Part C of each scenario, your task is to rank the top four issues you believe the adviser should take into account when making their decision.**

SCENARIO 1: PLEASE READ THE FOLLOWING SCENARIO AND THEN RESPOND TO THE QUESTIONS IN PARTS A, B and C

Ros is a professionally qualified financial planner and has recently joined a successful firm of financial planners. Ros is very happy in her job, and with more experience she has been promised a promotion to senior financial planner.

After commencing with the firm, she was told that if any clients require legal advice, they must be referred to a firm of solicitors who own the office building. The solicitor's professional fees are substantially higher than those of other solicitors offering similar services. However the firm of solicitors gives Ros employer a 30% reduction off their rental as a "quid pro quo". The firm's policy is that Ros is not to mention to her clients either the fact that the solicitor's fees are higher, (n)or that there is a rental arrangement between the firm and the solicitors.

Ros is currently dealing with Fay who requires the services of a solicitor to draw up a new will, as well as to take advice on the preparation of a power of attorney. Ros is considering sending her client to the firm.

<u>PART A</u>

What should Ros do? Do you favour the action of sending the client to the solicitor's firm?

______ Yes __________ Can't decide _______ No

<u>PART B</u>

In the process of making a decision as to whether or not to refer the client to the solicitor's firm, many issues need to be considered by Ros. Below is a list of some of those issues. Please rate the issues in terms of how important you think they are to Ros' decision.

	Issue	**Not Important**	**Little Importance**	**Some Importance**	**Important**	**Very Important**
1	Whether the client can afford the	1	2	3	4	5

	solicitor's fees.					
2	Would the referral be consistent with what Ros thinks is right?	1	2	3	4	5
3	What are the consequences for Ros if she goes against the firm's policy?	1	2	3	4	5
4	What is best for Ros' firm?	1	2	3	4	5
5	Do the firm's commercial arrangements impact on Ros' professional reputation?	1	2	3	4	5
6	Whether Ros' job may be threatened if she refuses to refer the client.	1	2	3	4	5
7	Whether someone in Ros' position should object to the firm's practice?	1	2	3	4	5
8	Whether the fiduciary duty Ros has is higher to her employer or the client?	1	2	3	4	5
9	What factors are relevant in determining Ros' professional responsibility?	1	2	3	4	5
10	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	1	2	3	4	5
11	Would the client really care about	1	2	3	4	5

	the arrangement provided she got appropriate legal advice?					
12	What action would Ros' co-workers expect her to take?	1	2	3	4	5

PART C

In this part you are asked to do something different. Please select the top four issues you believe Ros should take into account when making her decision. Please rank your top four in order of importance, with the number 1 as the most important, number 2 as the next most important, number 3 as the 3rd most important and number 4 as the fourth most important. Only four issues should be ranked and the numbers 1, 2, 3 and 4 should only be used once.

	Issue	**Ranking**
1	Whether the client can afford the solicitor's fees.	
2	Would the referral be consistent with what Ros thinks is right?	
3	What are the consequences for Ros if she goes against the firm's policy?	
4	What is best for Ros' firm?	
5	Do the firm's commercial arrangements impact on Ros' professional reputation?	
6	Whether Ros' job may be threatened if she refuses to refer the client.	
7	Whether someone in Ros' position should object to the firm's practice?	
8	Whether the fiduciary duty Ros has is higher to her employer or the client?	
9	What factors are relevant in determining Ros' professional responsibility?	
10	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	
11	Would the client really care about the arrangement provided she got appropriate legal advice?	
12	What action would Ros' co-workers expect her to take?	

Please confirm the ranking of your top four issues here

1. _____ 2. _____ 3. _____ 4. _______

SCENARIO 2 : PLEASE READ THE FOLLOWING SCENARIO AND THEN RESPOND TO THE QUESTIONS IN PART A, PART B AND PART C.

Andrew has been a financial planner in a medium sized town, Olbury, for several years as an authorised representative of a large financial planning firm Finance R Us. Andrew sees Natalie and Tony Short who need advice on their superannuation of $110,000 which is currently held in a retail fund and advice on whether they could invest their life savings of $45,000, currently held in term deposits and cash, at a higher level of interest. The Shorts are 62 and 56 respectively and are both unemployed.

Andrew's Licensee has asked Andrew to find clients who match a particular profile and recommend they move from their existing superannuation fund to a another fund, administered under a new platform environment, which has coincidentally been recently badged by Andrew's firm. The Shorts suit this profile. Andrew could recommend the clients switch all current investments to be managed within the badged platform environment. He could also prepare file notes which demonstrate that the product and platform match their risk profile and objectives and are reasonably suited, even though Andrew knows it does not suit all of their requirements and the exit fees from the existing fund are significant. Andrew is unsure whether he should proceed with the recommendation and switch all investments into the new product or recommend the $45,000 be placed into the existing superannuation environment or other investments.

PART A

What should Andrew do? Do you favour the action to switch the investments?

_________ Yes _________ Can't decide _______ No

PART B

In the process of making a decision as to whether or not to recommend a switch in investment, many issues need to be considered by Andrew. Below is a list of some of those issues. Please rate the issues in terms of how important you think they are to Andrew's decision.

	Issue	Not Important	Little Importance	Some Importance	Important	Very Important
1	Whether it is possible to make the switch recommendation without the clients being worse off?	1	2	3	4	5
2	Will the decision have any effect on Andrew's reputation in Olbury?	1	2	3	4	5

3	Whether Andrew is more responsible to his Licensee or his client	1	2	3	4	5
4	Would a switch recommendation violate the interests of the other citizens of Olbury?	1	2	3	4	5
5	Whether other Licensees recommend switches to in house products	1	2	3	4	5
6	Is payment of an exit fee justified in the circumstances?	1	2	3	4	5
7	Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?	1	2	3	4	5
8	What are the risks to Andrew in making the switch recommendation?	1	2	3	4	5
9	Are the couple actively seeking employment?	1	2	3	4	5
10	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general?	1	2	3	4	5
11	Does a switching recommendation constitute a breach of Andrew's professional obligations?	1	2	3	4	5

12	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	1	2	3	4	5

PART C

In this part you are asked to do something different. Please select the top four issues you believe Andrew should take into account when making his decision. Please rank your top four in order of importance, with the number 1 as the most important, number 2 as the next most important, number 3 as the 3rd most important and number 4 as the fourth most important. Only four issues should be ranked and the numbers 1, 2, 3 and 4 should only be used once.

	Issue	**Ranking**
1	Whether it is possible to make the switch recommendation without the clients being worse off?	
2	Will the decision have any effect on Andrew's reputation in Olbury?	
3	Whether Andrew is more responsible to his Licensee or his client	
4	Would a switch recommendation violate the interests of the other citizens of Olbury?	
5	Whether other Licensees recommend switches to in house products	
6	Is payment of an exit fee justified in the circumstances?	
7	Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?	
8	What are the risks to Andrew in making the switch recommendation?	
9	Are the couple actively seeking employment?	
10	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general?	
11	Does a switching recommendation constitute a breach of Andrew's professional obligations?	
12	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	

Please confirm the ranking of your top four issues here

1. _____ 2. _____ 3. _____ 4. _______

SCENARIO 3: PLEASE READ THE FOLLOWING SCENARIO AND THEN RESPOND TO THE QUESTIONS IN PARTS A, B AND C.

Kevin is 58 years old and a client of Jessica's. He wants a significant increase in his investment portfolio before he retires. He also wants to make the most of a bear market and buy in when shares are low. To achieve both objectives, Jessica advises Kevin to take out a margin loan, to increase the amount he has to invest in an equities portfolio. Jessica's Licensee has placed a margin lending product called "Super Dooper" on its Approved product list. Super Dooper is a margin loan that looks and behaves like an instalment warrant and is also cheaper then other margin loans.

The product has a higher LVR then other margin lenders, being 50% on listed investment companies. Other lenders are only prepared to lend 40%. The product also has an absolute repayment obligation of the borrowed amount in 12 months, but without the usual insurance cost charged by the investment bank that actually buys the stock – usually around 3% per annum. At Kevin's insistence, Jessica sets up a 50:50 leveraged portfolio in a self managed superannuation fund structure. Jessica advises Kevin that her advisory fees are $5,000 per year. She also knows the margin lender will pay her and the Licensee a 1% fee on the total amount invested. This is in addition to the trail commission of 0.5% that she will receive. Jessica tries to rebate the trail to Kevin, but this turns out not to be possible.

<u>PART A</u>

What should Jessica do? Do you favour the view that Jessica is entitled to all of the fees that will be obtained in this matter?

_________ Yes ___________Can't decide _________No

<u>PART B</u>

In the process of making a decision as to whether or not Jessica is entitled to the fees, many issues need to be considered by her. Below is a list of some of those issues. Please rate the issues in terms of how important you think they are to Jessica's decision.

	Issue	**Not important**	**Little importance**	**Some importance**	**Important**	**Very important**
1	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and recommend another strategy?	1	2	3	4	5
2	What is in the firm's interests?	1	2	3	4	5

3	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	1	2	3	4	5
4	What is fair remuneration for work done?	1	2	3	4	5
5	Are any other advisers providing similar services for a similar fee structure?	1	2	3	4	5
6	Would Jessica's decision be consistent with what she believes is just?	1	2	3	4	5
7	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	1	2	3	4	5
8	Whether fee structures impact on the profession's reputation within society.	1	2	3	4	5
9	Whether the investment is viable given the fee structure?	1	2	3	4	5
10	Jessica's ability to continue in practice and meet her own financial obligations?	1	2	3	4	5
11	Whether Kevin understands the level of service and what it will cost.	1	2	3	4	5
12	Whether fees charged should be commensurate with the level of	1	2	3	4	5

	investment risk and the skill associated with devising the strategy.					

PART C

In this part you are asked to do something different. Please select the top four issues you believe Jessica should take into account when making her decision. Please rank your top four in order of importance, with the number 1 as the most important, number 2 as the next most important, number 3 as the 3rd most important and number 4 as the fourth most important. Only four issues should be ranked and the numbers 1, 2, 3 and 4 should only be used once.

	Issue	**Ranking**
1	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and recommend another strategy?	
2	What is in the firm's interests?	
3	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	
4	What is fair remuneration for work done?	
5	Are any other advisers providing similar services for a similar fee structure?	
6	Would Jessica's decision be consistent with what she believes is just?	
7	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	
8	Whether fee structures impact on the profession's reputation within society.	
9	Whether the investment is viable given the fee structure?	
10	Jessica's ability to continue in practice and meet her own financial obligations?	
11	Whether Kevin understands the level of service and what it will cost.	
12	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the strategy.	

Please confirm the ranking of your top four issues here

1. _____ 2. _____ 3. _____ 4. _______

SCENARIO 4: PLEASE READ THE FOLLOWING SCENARIO AND THEN RESPOND TO THE QUESTIONS IN PARTS A, B and C

Nicholas is visited by new clients Janelle and Greg, who advise him they have left their previous financial planner due to what they describe as a "personality conflict". That planner is very well known and liked in the profession and is a representative of Nicholas' Licensee, in another office. Nicholas knows him socially and professionally.

Nicholas reviews the portfolio and finds that the previous advice included a recommendation that the clients' self managed superannuation fund invest $50,000 in Bay Land Mezze Pty Ltd. It was also recommended that Janelle invest $50,000 personally in that company out of $80,000 she had to invest. Bay Land Mezze Pty Ltd belongs to a Property Development Group and provided finance for the purpose of funding property developments in a capital city. At the time the advice was given, the company had a successful history of completion of projects and repayment to investors. In addition, Bay Land Mezze Pty Ltd had a second ranked mortgage over the development properties it financed and a second ranked and floating Charge over the Group itself. Greg is 66 years old and Janelle is 58. Both are assessed by Nicholas as being very cautious investors. A promissory note was issued to Janelle and G & J superannuation fund. The overall investment with Bay Land Mezze Pty Ltd and its ventures represented 12.5% of their overall portfolio. Nicholas' investigations reveal the company has just gone into liquidation.

PART A

What should Nicholas do? Do you favour the view that Nicholas should report the matter to his Licensee?

_________ Yes ___________Can't decide _________No

PART B

In the process of making a decision as to whether or not the matter should be reported to his Licensee, many issues need to be considered by Nicholas. Below is a list of some of these issues. Please rate the issues in terms of how important you think they are to Nicholas' decision.

	Issue	Not important	Little importance	Some importance	Important	Very important
1	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the previous adviser?	1	2	3	4	5
2	What research did	1	2	3	4	5

	the previous adviser do?					
3	Is there also an ethical breach that should be reported to a professional body?	1	2	3	4	5
4	Does Nicholas have the expertise to review the previous adviser's advice?	1	2	3	4	5
5	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	1	2	3	4	5
6	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	1	2	3	4	5
7	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	1	2	3	4	5
8	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	1	2	3	4	5
9	How will Nicholas' actions be perceived by other advisers within the Licensee?	1	2	3	4	5

10	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	1	2	3	4	5
11	Will it have an adverse effect on Nicholas' relationship with the other adviser?	1	2	3	4	5
12	What impact will it have on Nicholas' reputation within the Licensee?	1	2	3	4	5

PART C

In this part you are asked to do something different. Please select the top four issues you believe Nicholas should take into account when making his decision. Please rank your top four in order of importance, with the number 1 as the most important, number 2 as the next most important, number 3 as the 3rd most important and number 4 as the fourth most important. Only four issues should be ranked and the numbers 1, 2, 3 and 4 should only be used once.

	Issue	**Ranking**
1	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the previous adviser?	
2	What research did the previous adviser do?	
3	Is there also an ethical breach that should be reported to a professional body?	
4	Does Nicholas have the expertise to review the previous adviser's advice?	
5	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	
6	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	
7	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	
8	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	
9	How will Nicholas' actions be perceived by other advisers within the Licensee?	

10	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	
11	Will it have an adverse effect on Nicholas' relationship with the other adviser?	
12	What impact will it have on Nicholas' reputation within the Licensee?	

Please confirm the ranking of your top four issues here

1. _____ 2. _____ 3. _____ 4. _______

CONGRATULATIONS ON COMPLETING SECTION 4. THE MAIN SURVEY IS NOW COMPLETED. THE IDENTIFICATION NUMBER YOU REQUIRE FOR YOUR ETHICS CPD POINT FROM THE FPA IS 003323. SECTION 5 SHOULD TAKE YOU ONLY A MINUTE TO COMPLETE.

SECTION 5: OTHER ISSUES

This section allows you to provide any other comments or opinions you may have about the current ethical issues facing financial planning, ethical issues facing your Licensee or your business in general.

THANK YOU FOR YOUR PARTICIPATION

APPENDIX C.12: ETHICAL REASONING RANKINGS FOR FAIT CASE SCENARIOS

SCENARIO 1	No	Issue	Ranking
Business Referral	1	Whether the client can afford the solicitor's fees.	Conventional
	2	Would the referral be consistent with what Ros thinks is right?	Conventional
	3	What are the consequences for Ros if she goes against the firm's policy?	Pre Conventional
	4	What is best for Ros' firm?	Pre Conventional
	5	Do the firm's commercial arrangements impact on Ros' professional reputation?	Post Conventional
	6	Whether Ros' job may be threatened if she refuses to refer the client.	Pre Conventional
	7	Whether someone in Ros' position should object to the firm's practice?	Post Conventional
	8	Whether the fiduciary duty Ros has is higher to her employer or the client?	Post conventional
	9	What factors are relevant in determining Ros' professional responsibility?	Post conventional
	10	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	Conventional
	11	Would Fay really care about the arrangement provided she got appropriate legal advice?	Pre Conventional
	12	What action would Ros' co-workers expect her to take?	Conventional

SCENARIO 2	No	Issue	Ranking
Superannuation	1	Whether it is possible to make the switch recommendation without the clients being worse off?	Conventional
	2	Will the decision have any effect on Andrew's reputation in Olbury?	Conventional
	3	Whether Andrew is more responsible to his Licensee or his client	Conventional
	4	Would a switch recommendation violate the interests of the other citizens of Olbury?	Post Conventional
	5	Whether other Licensees recommend switches to in house products	Pre Conventional
	6	Is an exit fee product appropriate in the circumstances?	Pre Conventional
	7	Would it violate the values that Andrew has set himself for his own personal standards of behaviour?	Post Conventional
	8	What are the risks to Andrew in making the switch recommendation?	Pre Conventional
	9	Are the couple actively seeking employment?	Pre Conventional
	10	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general?	Post Conventional
	11	Does a switching recommendation constitute a breach of Andrew's professional obligations?	Conventional
	12	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	Post conventional

SCENARIO 3	No	Issue	Ranking
MARGIN LENDING	1	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and recommend another strategy?	Post conventional
	2	What is in the firm's interests?	Pre conventional
	3	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	Conventional
	4	What is fair remuneration for work done?	Conventional
	5	Are any other advisers providing similar services for a similar fee structure?	Pre conventional
	6	Would Jessica's decision be consistent with what she believes is just?	Conventional
	7	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	Post conventional
	8	Whether fee structures impact on the profession's reputation within society.	Post conventional
	9	Whether the investment is viable given the fee structure?	Post conventional
	10	Jessica's ability to continue in practice and meet her own financial obligations?	Pre conventional
	11	Does a switching recommendation constitute a breach of Andrew's professional obligations?	Conventional
	12	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	Post conventional

SCENARIO 4	No	Issue	Ranking
Westpoint	1	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the previous adviser?	Post conventional
	2	What research did the previous adviser do?	Pre conventional
	3	Is there also an ethical breach that should be reported to a professional body?	Conventional
	4	Does Nicholas have the expertise to review the previous adviser's advice?	Conventional
	5	Does society expect Nicholas' responsibilities to extend beyond the giving advice to the clients?	Post conventional
	6	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	Pre conventional
	7	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution?	Conventional
	8	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	Post Conventional
	9	How will Nicholas' actions be perceived by other advisers within the Licensee?	Pre conventional
	10	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	Post conventional
	11	Will it have an adverse effect on Nicholas' relationship with the other adviser?	Pre conventional
	12	What impact will it have on Nicholas' reputation within the Licensee?	Conventional

APPENDIX C.13 AMENDMENTS TO MAIN RESEARCH INSTRUMENT FOLLOWING PILOT SURVEY

Section	**Title**	**Change Made**
Preamble		
Instructions to Participants		At the end of sections 2, 3, and 4 **–**inserted a short paragraph congratulating participants on completion to date and informing them of approximate time to complete next section. This was done in an attempt to overcome participant frustration with the length of the survey. Participants were also given a guide at the top of each page to display the percentage of the survey completed by them to that point**.**
Section 1	Demographic	Only minor changes made to correct inaccuracies in pilot survey
Section 2	Ethical Culture	No changes to questions required based on preliminary analysis
Section 3	Ethical climate and culture survey	Overall the analysis held.
	Ethical Environment and Employee Focus	Questions generally held in preliminary analysis –minor wording changes made to questions 2, 9, 12, 13, 21 and 25 from the pilot survey mostly to clarify meaning or revert to Trevino wording and to ensure more rigour and overcome any confusion of meaning for participants.
	Community Focus	Questions held.
	Locus of Control	Although these questions were from Trevino questionnaire there seemed to be problems. Suggest order of questions revert to match Trevino survey. Add the word “not” to new question 23 so that all questions are consistent in direction in terms of response.
	Code Implementation	Minor change to one question to clarify meaning only, otherwise held under analysis.
	Situation Context	Questions held in preliminary analysis and required no change.

	Efficiency	Some problems associated with analysis –new questions 32 inserted as an additional question from Trevino study to add more rigour
	Rules and Procedure	Question 35 not holding –deleted pilot survey question 35 and inserted a new question here, an additional Trevino question in its place.
	Personal Ethics	Delete old questions 35 and 36 from the Trevino survey as not holding. Questions 38 and 39 holding so suggest add additional question 40 to ensure further rigour.
	Law and Professional Codes	Although held on preliminary analysis, suggest adding another question from Trevino survey to add rigour.
	Questions	Changed the question order in the main survey as follows: 18 and 19 reversed order 20 to 21 21 to 22 22 to 20 33 and 34 reversed order 34 to 36 38 to 37 39 to 38
Section 4	Financial Planning Issues Test	Made changes to the instructions received by participants as it seemed from pilot survey that some participants did not understand the instructions to Part C. For example, a number of people ranked used the ranking number 1 more than once in Part C. Participants were in fact supposed to adopt a hierarchical ranking where participants used the numbers 1, 2, 3, and 4 only once. Accordingly, inserted a new section in Part C of all four scenarios, such that participants were asked to re-confirm the ranking of their top four issues.

		In addition, changed the instruction wording given in Part C to clarify the action participants were expected to take.
	Part B and C	Some participants ranked all 12 issues, some gave the same ranking to more than one issue, some left out certain numbers in the ranking order. Changed the wording of issues 1, 6, 7, 12 in Part B Scenario 2 to clarify meaning and again in issues 6 and 7 in Part C. Changes also made to the instructions given to participants in this section to ensure clarity of meaning. Other small changes made to case scenarios only.
Section 5		minor changes to instructions made only

APPENDIX C.14: TABLE OF AMENDMENTS TO SECTION 3 ETHICAL CLIMATE SURVEY:

No	Original Question	Change made for Pilot	New No.	New Pilot Survey Question	Change made after Pilot	New No.	New Main Survey Question
A.	**Ethical Climate**	**Heading changed - to change perceived bias**		**The Environment**	**No change**		
	Management in this organisation disciplines unethical behaviour when it occurs	Change to wording "licensee" for "organisation throughout survey to ensure matches financial planning environment of participants who are not always employed by AFSL.	1	The Management of this Licensee disciplines unethical behaviour when it occurs.	No change, except to italicise "unethical" so that participants pick up more clearly when used instead of "ethical"	1	The Management of this Licensee disciplines *unethical* behaviour when it occurs.
	Employees in this organisation perceive that people who violate the ethics code still get formal organisation rewards	Change to wording "Employees" substituted with "People" given not all participants will be employed by AFSL.	2.	People at this Licensee perceive that the Advisers who engage in unethical behaviour still get formal organisational rewards.	Substitute "those" for "advisers" Italicise "unethical"	2	People at this Licensee perceive that those who engage in *unethical* behaviour still get formal organisational rewards.
	Penalties for unethical behaviour are strictly enforced in this organisation	Taken out Because numerous questions like it in this section					
	The top managers of this organisation represent high ethical standards	Taken out Because numerous questions like it under employee focus					
	The ethics code serves as 'window dressing" only in this organisation	Taken out Because we have question about public image.					
	Ethical behaviour is the norm in this organisation	Taken out Because its just getting too long					

	Top managers of this organisation guide decision making in an ethical direction.	Wording changed "senior managers of this licensee" instead of "top managers of this organisation"	3.	The senior managers of this Licensee guide decision making in an ethical environment.	No change	3	The senior managers of this Licensee guide decision making in an ethical environment.
	The ethics code serves only to maintain the organisation's public image	Wording changed To reflect AFSL environment as above.	4.	The Licensee's Code of Ethics serves only to maintain the organisation's public image.	No change	4	The Licensee's Code of Ethics serves only to maintain the organisation's public image.
	Ethical behaviour is rewarded in this Organisation.	Wording change "Licensee" substituted for "Organisation"	5.	Ethical behaviour is rewarded by this Licensee.	No change	5	Ethical behaviour is rewarded by this Licensee
	Unethical behaviour is punished in this organisation	Wording change "Licensee" substituted for "Organisation" Order changed from q4 to q6	6,	Unethical behaviour is punished at this Licensee	No change to wording but italicise "unethical" to make it stand out from "ethical" for participants	*6*	*Unethical* behaviour is punished at this Licensee
	People of integrity are rewarded in this organisation		7.	People of integrity are rewarded at this Licensee	No change	7	People of integrity are rewarded at this Licensee
	Top managers in this organisation regularly show that they care about ethics	Order changed "Top" to "senior"	8.	Senior managers in this organisation regularly show that they care about ethics	No change	8	Senior managers in this organisation regularly show that they care about ethics
	Top managers of this organisation are models of unethical behaviour	Words changed and one inserted 'good" inserted before role and "senior' and 'licensee' used consistently with rest of instrument.	9.	Senior managers at this Licensee are good role models for unethical behaviour	Delete word "good" to revert to original wording	9	Senior managers at this Licensee are models of *unethical* behaviour

	Ethics Code requirements are consistent with informal organisational norms	Word inserted “our” inserted at front	10.	Our Ethics Code requirements are consistent with informal organisational norms	No change	10	Our Ethics Code requirements are consistent with informal organisational norms
B	**Employee Focussed Climate**			**Employee focus**	**No change**		
		Brand new question	11.	I talk enthusiastically to my friends about the Licensee as it is a great organisation to belong to.	No change	11	I talk enthusiastically to my friends about the Licensee as it is a great organisation to belong to.
	The most important concern is the good of all people in this organisation	Taken out Seen to be a double up					
	People are very concerned about what is generally best for employees in this organisation	Wording changes “Licensee” for “organisation” and omitted word ‘generally’ which was inadvertent	12.	People are very concerned about what is best for this Licensee’s employees.	Add word “generally’ to conform with original wording	12	People are very concerned about what is generally best for this Licensee’s employees
	Our major consideration is what is best for everyone in this organisation	Wording changes Used ‘adviser for “everyone’ because interested to see if advisers seen as elite group	13.	Our major consideration is what is best for the advisers of this Licensee.	Substitute “everyone at” for “advisers of” to conform with original version	13	Our major consideration is what is best for everyone at this Licensee.
	What is best for each individual is a primary concern in this organisation	Taken out					
		New question	14.	I feel very loyal to this organisation.	No change	14	I feel very loyal to this organisation.
	In this organisation, people look out for each other’s good	Wording changes Licensee” for “organisation” and “welfare” for “good” because suits Australian	15.	At this Licensee, people look out for each other’s welfare.	No change	15	At this Licensee, people look out for each other’s welfare.

		vernacular.					
	It is expected that each individual is cared for when making decisions here	Taken out					
		Brand new question	16	My values and the Licensee's organisational values are very similar.	No change	16	My values and the Licensee's organisational values are very similar.
C	**Community-focussed Climate**	**Change to heading Ensure consistency with other headings**		**Community**	**No change**		
	The effect of decisions on the customer and the public is of primary concern in this organisation.	Word changes "client' used for customer to bring into AFSL environment. "Licensee' for "Organisation"	17.	The effect of decisions on the client is of primary concern at this Licensee.	No change	17	The effect of decisions on the client is of primary concern at this Licensee
	People in this organisation are actively concerned about the customer's and the public's interests	Taken out Too many questions and feels like a double up					
	It is expected that you will do what is right for the customer and the public.	Word changes Inserted the word 'always' and it could come out. Added reference to "Licensee"	18.	It is expected at this Licensee that you will always do what is right for the client and the public.	Order changed from 18 to question 19	19	It is expected at this Licensee that you will always do what is right for the client and the public
	People in this organisation have a strong sense of responsibility to the outside community.	Word change Licensee for organisation.	19.	People at this Licensee have a strong sense of responsibility to the outside community.	Order changed from question 19 to 18	18	People at this Licensee have a strong sense of responsibility to the outside community
D	**Obedience to Authority**	**Change in heading To overcome perception heading would bias response in Australian**		**Locus of Control**	**No change**		

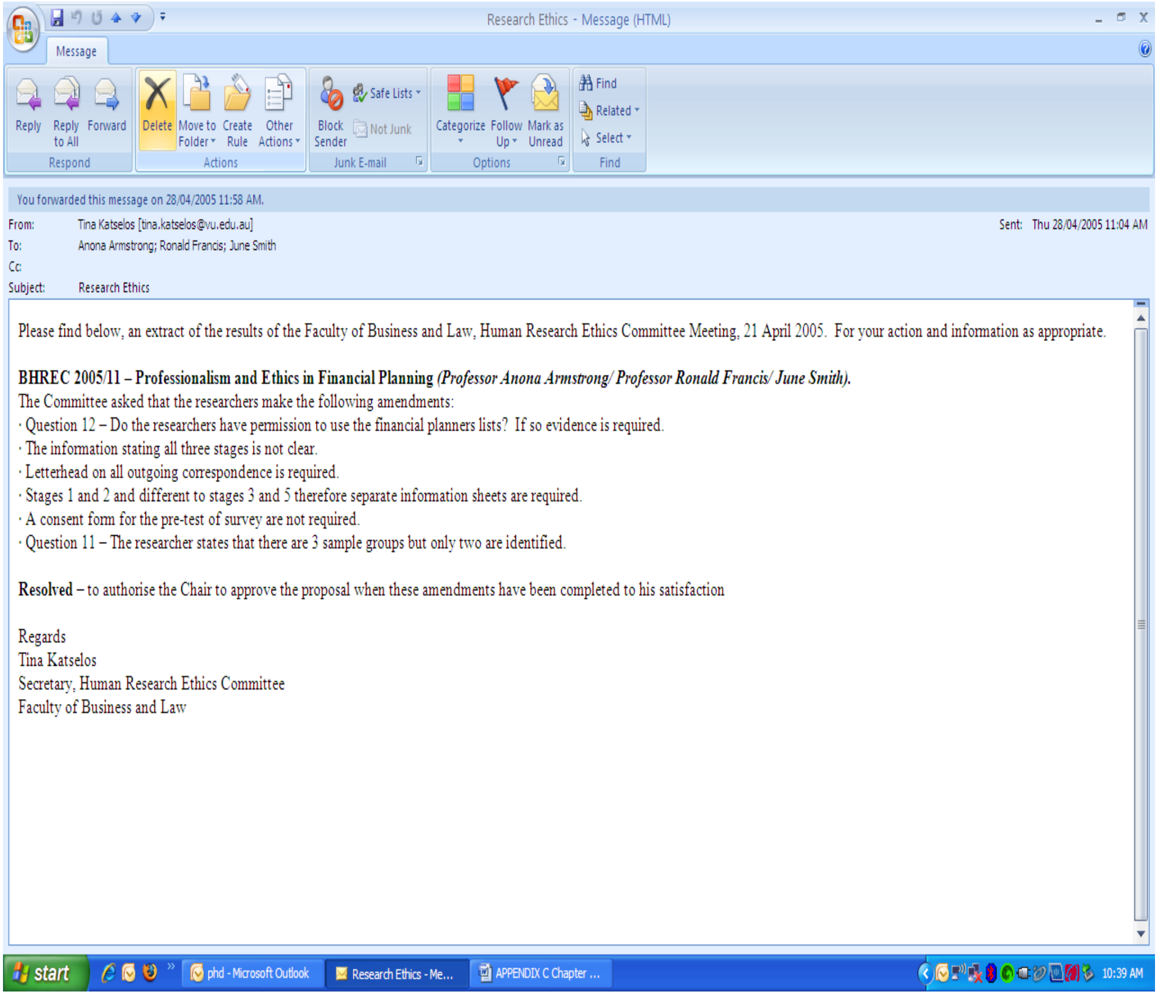
		context.					
	The organisation demands obedience to authority figures, without question	Change in order No change to wording	22.	This organisation demands obedience to authority figures, without question	No change to wording Question numbering has changed from 22 to 20	20	This Licensee demands obedience to authority figures, without question
	People in this organisation are expected to do as they're told.	Word changes "as' deleted for "what", "Licensee' for 'organisation"	20.	People at this Licensee are expected to do what they are told.	Change "what they are" to "as they're" Change to numbering from 20 to 21	21	People at this Licensee are expected to do as they're told.
	The boss is always right in this organisation.	Word changes "Licensee' for 'organisation"	21.	The boss is always right at this Licensee.	Numbering of question has changed from 21 to 22	22	The boss is always right at this Licensee.
		New question from Canadian study	23.	I am free to do my job in the way I see fit	We reversed the question's direction	23	I am not free to do my job in the way I see fit
E	**Code Implementation**			**Code Implementation**	**No change**		
	Employees are required to acknowledge that they have read and understood the ethics code	Taken out					
	The organisation has established procedures for employees to ask questions about its ethics code requirements	Word changes Change made to make it more relevant to AFSL environment	24.	The Licensee has established procedures for advisers to ask questions about its ethics requirements	No change	24	The Licensee has established procedures for advisers to ask questions about its ethics requirements
		New	25.	The Licensee relies on Codes of Ethics from professional associations rather than having its own.	Insert word 'code" to clarify meaning	25	The Licensee relies on Codes of Ethics from professional associations, rather than having its own Code.
	The Code of conduct is widely distributed throughout the	Changed order Change made to make it	26.	The internal Code of Ethics is widely distributed by the	No change	26	The internal Code of Ethics is widely

	organisation	more relevant to AFSL environment. Add word 'internal"		Licensee.			distributed by the Licensee
	Employees are regularly required to assert that their actions are in compliance with the ethics code	Wording changes "Advisers" for 'employees"	27.	Advisers are regularly required to assert that their actions are in compliance with the Licensee's Code of Ethics	No change	27	Advisers are regularly required to assert that their actions are in compliance with the Licensee's Code of Ethics
F	**Self Interest Climate**	**Change to heading To avoid possibility of bias in Australian Context**		**Situational Context**	**No change**		
	In this organisation, people protect their own interests above other considerations.	No change	28.	At this Licensee, people protect their own interests above other considerations.	No change	28	At this Licensee, people protect their own interests above other considerations.
		new	29.	People are expected to do anything to further the Licensee's interests.	No change	29	People are expected to do anything to further the Licensee's interests.
	People in this organisation are very concerned about what is best for themselves	Changed order No change to wording.	30.	People in this organisation are very concerned about what is best for themselves	No change	30	People in this organisation are very concerned about what is best for themselves
G	**Efficiency Climate**			**Efficiency**	**No change**		
	In this organisation, each person is expected above all to work efficiently.	No change	31.	At this Licensee, each person is expected above all to work efficiently.	No change	31	At this Licensee, each person is expected above all to work efficiently.
	The major responsibility of people in this organisation is to consider efficiency first	Taken out because too much like other questions			Reinserted as question 32	32	The major responsibility of people at this Licensee is to consider efficiency first

	The most efficient way is always the right way in this organisation.	Word change “Licensee’ for ‘Organisation”	32.	The most efficient way is always the right way at this Licensee.	Reverse the order of the question with question 33	34	The most efficient way is always the right way at this Licensee.
	Efficient solutions to problems are always sought here	No change	33.	Efficient solutions to problems are always sought here	Reverse the order of the question with question 34	33	Efficient solutions to problems are always sought here
H	**Rules and Procedures Climate**			**Rules and Procedures**	**No change**		
	It is important to strictly follow the organisation’s rules and procedures	Taken out because duplicate question			Reinsert this question	35	It is important to strictly follow the Licensee’s rules and procedures
	Everyone is expected to stick by company rules and procedures	Word change “Licensee’ for ‘company”	34.	Everyone is expected to stick by Licensee’s rules and procedures.	No change except question number has altered	36	Everyone is expected to stick by the Licensee’s rules and procedures
		new	35.	At this Licensee, any conflict between the organisations procedures and external professional standards are resolved in favour of the Licensee.	Taken out of main survey		
I	**Personal Ethics Climate**			**Personal Ethics**	**No change**		
	In this organisation, people are guided by their own personal ethics.	Word change licensee’ for ‘organisation”	36.	At this Licensee, people are guided by their own personal ethic.			
	Each person in this organisation decides for themselves what is right and wrong.	“licensee’ for ‘organisation”	37.	Each person at this Licensee decides for themselves what is right and wrong.			
	The most important concern in this organisation is each person’s sense of right and wrong	Taken out					
		new	38.	The structure of my work	Change to question	37	The structure of my

				environment allows me to fully express myself as a professional.	number only from 38 to 37		work environment allows me to fully express myself as a professional
		New from the Canadian study	39	It is important to always act in an ethical manner	Change to question number only from 39 to 38	38	It is important to always act in an ethical manner
					New question	39	The structure of my work allows me to act in an ethical manner
J	**Law and Professional Codes Climate**		**9.**	**Law and Professional Codes**			
	In this organisation, people are expected to comply with the law and professional standards over and above other considerations.	Word changes "organisation' for "Licensee" – split the question into two to ask about law and professional standards separately.	40.	People at this Licensee are expected to comply with the law over and above other considerations.	No change	40	People at this Licensee are expected to comply with the law over and above other considerations.
	In this organisation people are expected to strictly follow legal or professional standards	Taken out			Reinserted as question number 42	42	At this Licensee, people are expected to strictly follow legal or professional standards
		new	41.	At this Licensee, the professional standards associated with financial planning are the major consideration.	No change	41	At this Licensee, the professional standards associated with financial planning are the major consideration.

APPENDIX C.15: ETHICS COMMITTEE APPROVAL



Research Ethics - Message (HTML)

You forwarded this message on 28/04/2005 11:58 AM.

From: Tina Katselos [tina.katselos@vu.edu.au]

Sent: Thu 28/04/2005 11:04 AM

To: Anona Armstrong; Ronald Francis; June Smith

Cc:

Subject: Research Ethics

Please find below, an extract of the results of the Faculty of Business and Law, Human Research Ethics Committee Meeting, 21 April 2005. For your action and information as appropriate.

BHREC 2005/11 – Professionalism and Ethics in Financial Planning ***(Professor Anona Armstrong/ Professor Ronald Francis/ June Smith).***

The Committee asked that the researchers make the following amendments:

· Question 12 – Do the researchers have permission to use the financial planners lists? If so evidence is required.

· The information stating all three stages is not clear.

· Letterhead on all outgoing correspondence is required.

· Stages 1 and 2 and different to stages 3 and 5 therefore separate information sheets are required.

· A consent form for the pre-test of survey are not required.

· Question 11 – The researcher states that there are 3 sample groups but only two are identified.

Resolved – to authorise the Chair to approve the proposal when these amendments have been completed to his satisfaction

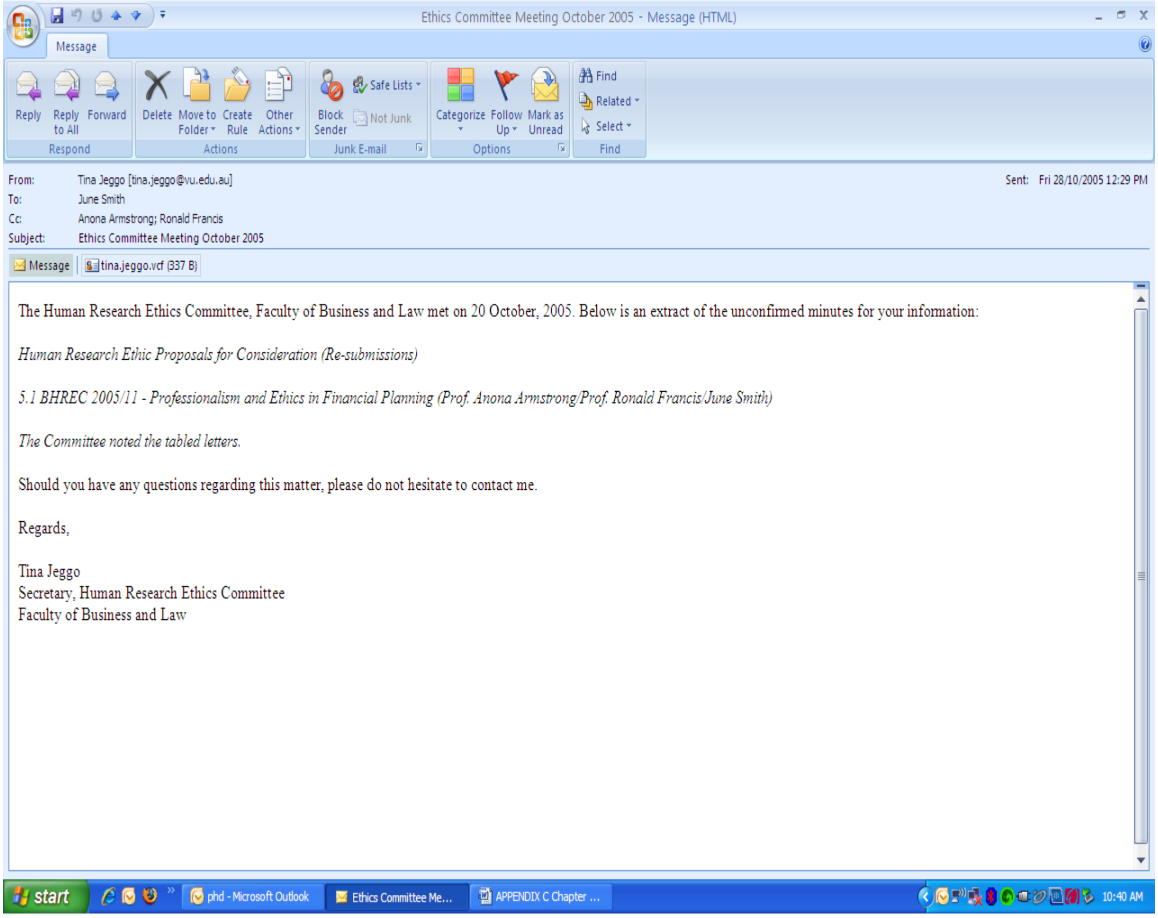
Regards

Tina Katselos

Secretary, Human Research Ethics Committee

Faculty of Business and Law

APPENDIX C.15 (cont): ETHICS COMMITTEE APPROVAL



Ethics Committee Meeting October 2005 - Message (HTML)

From: Tina Jeggo [tina.jeggo@vu.edu.au]
To: June Smith
Cc: Anona Armstrong; Ronald Francis
Subject: Ethics Committee Meeting October 2005
Sent: Fri 28/10/2005 12:29 PM

Message | tina.jeggo.vcf (337 B)

The Human Research Ethics Committee, Faculty of Business and Law met on 20 October, 2005. Below is an extract of the unconfirmed minutes for your information:

Human Research Ethic Proposals for Consideration (Re-submissions)

5.1 BHREC 2005/11 - Professionalism and Ethics in Financial Planning (Prof. Anona Armstrong/Prof. Ronald Francis/June Smith)

The Committee noted the tabled letters.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Regards,

Tina Jeggo
Secretary, Human Research Ethics Committee
Faculty of Business and Law

APPENDIX D

CHAPTER 6 RESULTS

APPENDIX D: CHAPTER 6 RESULTS .

APPENDIX D.1: AUSTRALASIAN LEGAL INFORMATION INSTITUTE (AUSTLII) SEARCH RESULTS FOR PUBLISHED CIVIL COURT ACTIONS RAISING ALLEGATIONS OF NEGLIGENCE AGAINST FINANCIAL ADVISERS IN THE PROVISION OF FINANCIAL ADVICE TO CLIENTS 2006-2007*

YEAR	DECISION CITATION	Relevant Court	Allegations	Outcome
2006	Adam v Perpeptual Trustees Australia Ltd & Ors [2006] SADC 62 (15 June 2006)	South Australian District Court	see formal appendix document	
	Trew & Anor v Sas Financial Services Pty Ltd & Ors [2006] WASC 116 (21 June 2006)	Western Australia Supreme Court	Provision of inappropriate financial advice following attendance at investment course	Application for leave to amend the statement of claim granted
	Evans v Brannelly & ors [2006] QDC 348 (20 September 2006)	Queensland District Court	Westpoint - see formal appendix document and substantive decision of 2008	
2007	Woods v De Gabriele [2007] VSC 177 (15 June 2007)	Victorian Supreme Court	Westpoint – inappropriate advice given to in relation to investment in mezzanine notes issued by Market Street Mezzanine Limited,	Application by defendants to join additional defendant and concurrent wrongdoer granted
	Delmenico v Brannelly & Ors [2007] QDC 165 (9 August 2007)	Queensland District Court	Westpoint - see formal appendix document	
	Harry Goudias Pty Ltd v Akakios [2007] SASC 81 (8 March 2007)	South Australian Supreme Court	Plaintiff entered into series of loan agreements. Plaintiff's accountant was also director of Company lender and allegedly plaintiff's financial adviser	Appeal from trial judge decision. Order that the plaintiff's claims for payment pursuant to a guarantee, and for damages for negligence, breach of fiduciary duty and misrepresentation be remitted to the District Court for re-hearing by another judge
	Vijayaragavalu Mohandoss v AMP Superannuation Ltd [2007] FCA 497 (5 April 2007)	Federal Court of Australia	The applicant's financial adviser, "W", who was a trustee of a Superannuation Fund ("the Receiving Fund") recommended that the applicant transfer his superannuation from another Fund to the Receiving Fund. To implement that advice, the applicant signed in blank documents provided to him by "W". W then charged with using funds to own	Appeal from a determination of the Superannuation Complaints Tribunal to affirm the decision of the respondent to refuse to re-credit the superannuation benefit account standing to the credit of the applicant. Leave to amend the notice of appeal be refused

			account	
	Smolle v Australian and New Zealand Banking Group Ltd [2007[FCA 1673 (7 November 2007)	Federal Court of Australia	Alleged inappropriate advice to switch investments for tax and interest advantages	Applications by numerous defendants to dismiss proceedings upheld
	Atkins v Interprac Financial Planning Pty Ltd & ors [2007] VSC 445 (19 November 2007)	Victorian Supreme Court	Westpoint – alleged false, misleading or negligent advice given by the defendants in connection with certain investments made by the plaintiff.	Applied to the Court for leave to join additional parties to the proceeding
	Dartberg Pty Ltd v Wealthcare Financial Planning Pty Ltd [2007] FCA 1216 (10 August 2007)	Federal Court of Australia	Westpoint - alleged false, misleading or negligent advice given by the defendants in connection with certain investments made by the plaintiff	Application for discovery against potential concurrent wrongdoers dismissed
	Jameson v Professional Investment Services Pty Ltd [2007] NSWSC 1437 (12 December 2007)	New South Wales Supreme Court	Westpoint – former clients of one licensee bring representative action seeking damages for negligent advice	Plaintiff could not prove same representation made to entire Group- Proceedings cannot be continued as class action.

FOOTNOTES*

Of the 285 published decisions identified between 2004 -2007, 270 decisions were excluded because they did not meet the search criteria, leaving the 15 cases outlined in this Appendix. The excluded decisions concerned either criminal actions taken by the regulator, or civil actions for negligent financial advice against solicitors, finance brokers and accountants who did not appear to have provided that advice pursuant to the Act's licensing regime (For example: R v Tomaiuolo [2007] SASC 34 (6 February 2007) – finance broker alleged to have forged mortgage documents; R v De Stefano [2003] VSC 68 (13 March 2003) – Accountant alleged to have embezzled funds from clients to make payments on property development loan; Bandwill Pty Ltd & anor v SpencerLaitt & ors [2000] WASC 210 (24 August 2000) – advice from solicitor on discretionary trust transactions to which he was also an alleged beneficiary; and ASIC v PFS Business Development Ltd [2006] VSC 192 – unlicensed advice in self managed superannuation fund).

A further Boolean search on 12 February 2008 of the AustLii databases using the term "Westpoint" located 311 documents. Many of these cases were actions taken by ASIC in the wind up of Westpoint and related companies and in obtaining orders for the surrender of director's passports and asset preservation. A Boolean search using the term "Westpoint and financial adviser" identified three cases, Jameson v PIS [2007]; Delmenico [2007] and Lindalow v Ambrosy (No. 2)[2003] an action concerning a creditor's petition against a debtor estate and not relevant to this analysis.

APPENDIX D.2: ANALYSIS OF PUBLISHED AUSTRALIAN CIVIL COURT DECISIONS RAISING ALLEGATIONS OF UNETHICAL CONDUCT AGAINST FINANCIAL ADVISERS IN THE PROVISION OF FINANCIAL ADVICE TO CLIENTS 2006-2007*

Year	Decision	Relevant Court	Summary of Alleged Unethical Conduct	Ethical Principles Breaches Identified
2006	**Adam v Perpeptual Trustees Australia Ltd & Ors [2006] SADC 62 (15 June 2006)**	South Australian District Court	• Elderly client gave numerous unsecured loans of to relatives in circumstances which put her investment portfolio at risk. • Adviser did not fully inform client of risks associated with unsecured loans to family members • Failed to ensure client was not unduly influenced by family members into making loans • Did not monitor bank accounts and ensure investments/loans were secured • Failed to advise client to seek independent legal advice before providing loans • Should have taken control of client's finances under power of attorney • Adviser should have taken broader view of retainer and duties given the client's health and intellectual deterioration in circumstances where powers of attorney were held	• Com/Pro • Fai/Int • Dil • Dil • Kno • Dil • Dil
	Evans v Brannelly & ors [2006] QDC 348 (20 September 2006) and [2008] QDC 269 (21 November 2008) Case concerned Westpoint • six plantiffs	Queensland District Court	• Failing to meet the professional standards expected of a competent financial adviser • Inappropriate use of marketing letters to generate business sales in certain investments • Adviser misrepresented the nature of the Westpoint investment and	• Com/Pro • Int/Fai • Obj

	• two advisers • two licensees • one financial product Three actions concerning investments on behalf of self managed superannuation funds, two concerned investment of the proceeds from the sale of residential properties and one involved a 70 year old client in retirement. This summary represents the unethical conduct noted across all six clients		the guaranteed offered by related companies to clients • Failed to disclose all fees and commissions payable • No real disclosure of the risks associated with the investment • Misrepresented Westpoint's reputation and longevity • Attempt to limit the advice information only for which there was no responsibility was flawed. • Adviser described investment as 'secured" when it was not • Did not know of Regulator action into investment • Adviser described investment as 'secured" when it was not • Failure to ensure recommendations could meet client objectives • Misled the clients by using language such as "excellent opportunity" to describe the investment • Placing clients in investments that did not suit their circumstances • Failed to follow up gaps in information such as how company would meet its claimed high returns and construction completion dates • Failure to assess tolerance to risk • Failing to tailor advice to each individual client's needs • Failing to disclose accurate information relevant to the clients' decision to invest or not	• Kno • Int • Int/Fai • Kno/Dil • Dil • Kno/Dil • Dil/Com • Int • Kno • Dil/Fai • Kno • Kno/Dil • Int/Pro/Fai
2007	Delmenico v Brannelly & Ors [2007] QDC 165 (9 August 2007) and [2008] QCA 74 (4 April 2008)	Queensland District Court	Westpoint matter – investment based on loan of $50,000 from line of credit on residential property, for investing in smsf.	• Com/Pro

			• Adviser misinterpreted the content of the Westpoint Information Memorandum describing the nature of the offering and the guarantees given by related companies and relayed that misinterpretation to the client • Client relied upon this interpretation and recommendations made by adviser • Attempt to limit the advice information only for which there was no responsibility was flawed. • Adviser described investment as ‘secured” when it was not • Adviser did not understand the product he was recommending • Failed to follow up gaps in information such as how company would meet its claimed high returns • Failed to advise of risks associated with investment • Did not know of Regulator action into investment	• Kno • Fai • Int/Fai • Kno/Dil • Kno • Dil/Fai • Kno/Pro • Dil

FOOTNOTES

The Boolean search conducted of the AustLii databases using the terms “Negligence and financial adviser” originally highlighted 285 cases between 2004 and 2007 that may suit the criteria established for the search. However, to be included in this table the case had to meet the following further criteria:

- The case had to be a civil action against a financial adviser or AFS Licensee;
- The matter must relate to negligent advice by the adviser to a client;
- To be reviewed the decision had been finally determined by the courts;
- The matter could not involve actions against accountants, solicitors or other unlicensed persons giving advice or accountants in their roles as auditors;
- The matter could not be primarily about Banks acting in their lending capacity; and
- Criminal and civil cases brought against financial advisers by the regulator were excluded.

APPENDIX D.3: TABLE ANALYSING ASIC BANNING ORDERS AGAINST FINANCIAL ADVISERS 2006 -2007*

NAME	BANNING ORDER DATES	MEDIA RELEASE NO.	TYPE OF ADVICE	Alleged Unethical conduct
2006				
Lahey, Bruce	13/01/06-13/01/11	2 entries, no media release	no information available	
Gray, Alan	16/01/06-16/01/11	No media release	no information available	
Lines, Phillip	30/01/06-permanent	06-020	Investment advice	• Failure to reveal and making false statements about previous fraud convictions to AFS Licensee • Failed to provide disclosure documents to clients • Did not maintain documents to support recommendations to clients
Knightsbridge, Donna	22/03/06-permanent	06-158	Insurance	• Falsified documents related to a client's application for insurance policy
Hayes, Julian	3/3/03 - three years	06-063	Superannuation	• See analysis under AAT decisions
Cavanough, Barbara	04/05/06-04/05/16	06-145	Managed investment schemes	• Associated with two unregistered managed investment schemes. Advised several clients to invest in these schemes without proper disclosure of personal interests. • Failed to provide statements of advice to its clients when providing financial services advice to switch superannuation products
Howarth, Duncan	02/06/06-permanent	06-181	Insurance premium loans	• Arranged insurance premium loans for clients who has not entered into insurance contracts • Obtained $86,593 commissions for doing so
Isaacs, Lynn	03/06/06-permanent	06/241 (mm.com	Banking	• Transferred client funds from bank account to her own accounts • Misrepresented the nature of these transactions to clients

		19/7/06)		• **Misappropriated client funds**
Browning, Adam	**13/06/06-permanent**	**06-201 mm.com(19/06/06)**	**Insurance broking**	• **Lodging false loan applications and creating false invoices** • **Misled clients as to policy details** • **Misappropriated premium payments**
Jarrett, David	**17/06/06-permantent**	**06-203**	**Investment advice**	• **Withdrew client funds from savings account without permission** • **Terminated client investments of $167,654 without permission** • **Misappropriated client funds**
Howell, Terence	**20/06/06-permanent**	**06-207**	**Insurance**	• **Intentionally used insurance premiums of at least 57 clients for personal purposes** • **Failed to retain client insurance premiums in a trust account for forwarding to insurer**
Dawson, Scott	**29/06/06-permanent**	**06-227**	**Superannuation/ Share advice**	• **Failed to act properly when dealing with client funds**
Flegg, Graham	**30/06/06-30/06/09**	**06-232 mm.com(11/06/06)**	**Managed Investment Schemes**	• **Failed to provide advice in writing and ensure advice was appropriate** • **Recommended unsuitable speculative investment in unsecured product to elderly couple** • **Failed to disclose product offered by related company and conduct independent research**
Whittaker, Dennis	**28/07/06-permanent**	**06-274**	**Insurance broking**	• **Used insurance premiums of at least $120,000 from clients for personal purposes**
Porcia, Jose	**07/08/06-permanent**	**06-274 2 entries**	**Banking**	• **Falsifying documents** • **Misappropriating client funds**
Croese, Gary	**10/08/06-10/08/08 conditional**	**06-280**	**Superannuation**	• **Statements of advice failed to disclose relevant information**

Clair, Timothy	**14/08/06-14/08/08**	**06-285 (mm.com 21/08/06) (mm.com(14/08/06)**	**General investment advice**	• **Statements of advice failed to disclose relevant information such as reasons to switch investments** • **Did not make reasonable enquiries into client circumstances prior to recommending financial products** • **Failed to disclose commissions**
Nicholls, Ian	**18/08/06-18/08/11**	**06-286**	**Private company investment**	• **Arranged for a client to invest in a private company without proper disclosures of personal interests** • **Failed to have a reasonable basis to recommend investment** • **Placed his own interests before those of the client** • **Failed to provide 25 clients with written advice**
Butler, Gavin	**29/08/06-29/08/11**	**06-302**	**Equities/Shares**	• **Conducted trading on client accounts without their knowledge** • **Engaged in complex options trades without considering client objectives and risk tolerance** • **Inappropriately borrowed money from clients to prop up failing portfolios** • **Failed to expose risks associated with investments** • **Failed to provide relevant disclosures**
Yourell, Matthew	**01/09/06-01/09/14**	**06-302**	**Equities/Shares**	• **Conducted trading on client accounts without their knowledge** • **Engaged in complex options trades without considering client objectives and risk tolerance** • **Inappropriately borrowed money from clients to prop up failing portfolios** • **Failed to expose risks associated with investments** • **Failed to provide relevant disclosures**
Clifton, Mark	**06/09/06-06/09/16**	**06-323**	**Superannuation**	• **Whilst running accounting and financial services business operated private investment trust that was not an approved product** • **$1.7 Million of client funds for superannuation investment transferred to adviser’s own use**
Morley, Rae	**08/09/06-permanent**	**06-308**	**Insurance Broking**	• **Misappropriated client funds** • **Falsified receipt documents**

Butt, Michael	**11/09/06-permanent**	**06-314**	**not available**	• **Applied cash payment made by clients for own purposes**
Gentry, Dennis	**14/09/06-14/09/11**	**06-332**	**Insurance Broking**	• **Issued false certificates of insurance** • **Applied cash payment made by clients for own purposes**
Huckel, Graham	**22/09/06-22/09/11**	**06-361**	**Managed Investment Schemes**	• **Made false representations to clients regarding the security of the investments recommended, inducing clients to apply for those investments** • **Failed to conduct reasonable investigations into these investments and did not pay proper regard to the investment needs of a number of clients** • **Recommended several investments which did not have the required disclosure documents lodged with ASIC** • **Made offers to members of the public to invest in an unregistered managed investment scheme in several instances** • **Failed to provide statements of advice (SOA) or gave inadequate SOA's to clients which failed to explain the reasoning behind the recommendations and risks associated**
Lye, Byron	**28/09/06-28/09/11**	**06-361**	**Managed Investment Schemes**	• **Made inappropriate recommendations** • **Misleading statements of advice or failure to provide written advice** • **Failed to consider client's circumstances** • **Induced clients to invest through false statements** • **Failure to disclose commission payments** • **False representations regarding the security of the product**
Louey, Kevin	**04/10/06-permanent**	**07-85**	**Equities/Shares**	• **Obtained $30,000 from two clients, allegedly on basis it would be used to trade in shares on their behalf** • **Instead used the money for own financial advantage, including making repayments on his mortgage and car loan** • **Dishonestly advised his clients that their funds were earning profits**
Starbuck, Heath	**12/10/06-permanent**	**06-374**	**Margin Lending**	• **Defrauded $176,750 from margin loan accounts**
Hres, Stephen	**24/10/06-24/10/09**	**06-374**	**Property Investment Schemes**	• **Recommended clients invest in high risk mezzanine property investments**

				• Failed to explain the risks associated with investments
Holzheimer, Karen	**27/10/06-27/10/09**	**06-422**	**Investment Advice**	• Associated with an entity described on an internet website as a bank • Represented to a number of investors that the entity was a good investment and promised unreasonably high returns to investors. • Failed to consider and fully investigate the representations made by the entity while exposing investors to unacceptable risks
Brecker, Graham	**31/10/06-permanent**	**No media release**	**no information available**	
Leech, Matthew	**01/11/06-permanent**	**07-70**	**no information available**	• Obtained either financial advantage or property by deception totalling approximately $1.3 million. • Created false documents
Franke, Craig	**7/11/06-7/11/08**	**06-394**	**Superannuation**	• Failed to give written advice • Provided financial advice unsupervised • Signed the name of another adviser on statements of advice
Franke, Terence	**7/11/06-7/11/08**	**06-394**	**Superannuation**	• Gave financial product advice without providing a statement of advice • Failed to disclose remuneration to be paid
Lam, Trevor	**21/12/06-21/12/11**	**06-451**	**Equities/Shares**	• Arranged for open call option contracts (with unrealised losses in excess of $200,000) to be transferred from one client's account to another without authority • Traded options contracts on a client account without instructions.
2007				
Wilson, Robert	**06/02/07-permanent**	**07-312, 07-26**	**Insurance broking**	• Deposited funds he obtained for general insurance products into bank accounts under his control • Failed to pass the funds on to the relevant insurance provider • Stole over $134,500 from clients and a insurance premium funder
Quiek, Adam	**15/03/07-15/03/12**	**07-80**	**Insurance**	• Debited customers' accounts to pay for Insurance without consent and without clients receiving a policy of insurance

				• Did so to gain a performance bonus for himself
Leech, Matthew	**20/3/07**	**07-70**	**Investment advice**	• **Obtained approximately $1.3 million from clients by deception.** • **Created false documents** • **Gained a financial advantage for himself in the amount of $51,450**
Sheung, Kinon	**22/03/07-permanent**	**07/80 (IFA 9/4/07)**	**Investment advice**	• **Engaged in repeated dishonest conduct, including applying $177,000 of clients' money for his own use**
Soffer, Callen	**26/03/07-26/03/12**	**07-72 (IFA 28/5 – 3/6/07)**	**No information available**	• **Obtained property by deception involving an unauthorised transaction of $100,000**
Chilvers, Terence	**04/04/07-04/04/09**	**07-97 (mm.com 26/04/07)**	**Equities/Shares**	• **Promoted an exclusive and guaranteed placement of shares in a mining company which investors never received** • **Offered shares in the company without providing a copy of the company's prospectus.** • **Advertised securities without mentioning the required prospectus.** • **Made misleading claims about the company's trading history and the scale of its operations.**
De Souza, Derrick	**04/04/07-04/04/09**	**07-97 (mm.com 26/04/07)**	**Equities/Shares**	• **Promoted an exclusive and guaranteed placement of shares in a mining company which investors never received** • **Offered shares in the company without providing a copy of the company's prospectus.** • **Advertised securities without mentioning the required prospectus.** • **Made misleading claims about the company's trading history and the scale of its operations.**
Hartley, Neil	**10/05/07-10/05/12**	**07-138 IFA (28/5-3/6/07) See mm.com**	**Tax effective managed investment schemes**	• **Made inappropriate recommendations to clients** • **Provided misleading statements of advice** • **Failed to consider client circumstances** • **Induced clients to invest through false statements** • **Failed to disclose commission payments**

Gara, Daniel	**19/07/07-19/07/10**	**07-202**	**Managed Investment scheme**	• **Advised seven clients to invest a total of $863,720 into a managed investment scheme operated by his principal.** • **Led investors to believe they would have legal title to the funds they invested in and the investments made from those funds when, in fact, this did not happen** • **Failed to adequately research the financial product he was recommending**
Colebrook, Martin	**30/08/07-30/08/09**	**07-248**	**Insurance**	• **Induced a client to deal in financial products by making or publishing misleading invoices relating to the supply of various insurance products**
Davis, Glenn	**05/09/07-05/09/12**	**07-250**	**Westpoint**	• **Provided inappropriate advice to clients to invest in Westpoint products** • **Advised clients to and facilitated investment in a Westpoint product which was not on the Approved Product List of the relevant Licensee** • **Failed to accurately disclose commissions and other payments received**
De Boer, Annemieke	**13/09/07-permanent**	**07-249**	**Westpoint**	• **Stole investor funds** • **Provided inappropriate advice to clients to invest in Westpoint products**
Parker, Michael	**14/09/07-14/09/08**	**07-247**	**Superannuation**	• **Sent 90 clients an identical statement of advice** • **Recommended the roll-over of superannuation savings to a fund in which his Licensee had a financial interest without first determining and making inquiries in relation to each client's personal circumstances or considering whether his advice to each client was appropriate.**
Chen, Andy	**25/10/07-25/10/12**	**07-283**	**Westpoint**	• **Provided inappropriate advice to clients about investing in Westpoint products** • **Had no reasonable basis for the advice** • **Did not act in the best interests of his clients** • **Made statements about Westpoint products that were misleading or deceptive**

Armstrong, Christopher	**29/10/07-29/10/15**	**07-287**	**Westpoint**	• **Recommended or facilitated investments in Westpoint products through an unlicensed entity after those products had been removed from the Approved Product List of the relevant licensee** • **Provided inappropriate advice to clients to invest in Westpoint products** • **Failed to accurately disclose commission and payments** • **Made misleading statements about the security of Westpoint products**
Lowth, Jason	**31/10/07-31/10/12**	**07-288**	**Westpoint**	• **Provided inappropriate advice to clients to invest in Westpoint products** • **Had no reasonable basis for the advice he gave** • **Did not act in the best interests of his clients** • **Made statements to his clients about Westpoint products that were misleading or deceptive**.
Chin, Yee	**12/11/07-12/08/08 (conditional banning order)**	**07-298**	**No information available**	• **Failed to provide statements of advice when, or as soon as practicable after, the advice was provided, albeit not deliberate.**
Wade, Phillip	**16/11/07-16/11/14**	**07-297**	**Westpoint**	• **Failed to provide appropriate advice about Westpoint products to his clients** • **Engaged in conduct that was misleading and deceptive, or likely to mislead and deceive, with respect to the Westpoint products.**
Meggison, Garry	**04/12/07-04/12/09**	**07-320**	**Investment advice**	• **Failed to give a statement of advice, within the required time frame, in relation to three clients** • **Failed to have an appropriate basis for that advice** • **Failed to make proper disclosures about the costs of acquiring financial products and the significant consequences of replacing existing products**
Humphrey, Ki	**14/12/07-14/12/12**	**07-336**	**Westpoint**	• **Failed to have an appropriate basis for advice with respect to Westpoint products;** • **Engaged in conduct that was misleading and deceptive, or likely to mislead and deceive, with respect to Westpoint products;** • **Did not provide clients with disclosure documents.**

Fung, Tina	**19/12/07-19/12/11**	**07-343**	**Westpoint**	• **Provided inappropriate advice to clients about investing in Westpoint products,** • **Had no reasonable basis for the advice** • **Did not act in the best interests of clients** • **Made misleading and deceptive statements about Westpoint products**

*** FOOTNOTES**

Originally143 records of banning orders were identified for 2004 to 2007. However, some records were discounted as not matching the search criteria. For example, some advisers had duplicate records (Annemieke De Boer – 8 records noted and one counted; Neville Kakoshcke - 2 records noted , one counted; Jose Alexis – 2 records noted, one counted). In addition, banning orders against people who were unlicensed to give advice under the Act were specifically excluded as to be included in the analysis subjects had to have been an authorized representative or agent of a principal giving advice to retail clients. For example, the table does not include a number of accountants who were subject to a banning order for giving unlicensed financial advice to clients (Paul Edward Brown ASIC Media Release 05-77, 31 March 2005). The table does however include authorized representatives who were the subject of a banning order for operating a financial services business without a license (Dominic Romeo ASIC Media Release 05-81, 1 April 2005). Further, the table does not include banning orders that had expired by the time the analysis was undertaken for the purposes of this study in January 2008 or banning orders where no media release was available.

APPENDIX D.4: TABLE OF ASIC ENFORCEABLE UNDERTAKINGS GIVEN BETWEEN 2006 – 2007 BY AFSL HOLDERS AND AUTHORISED REPRESENTATIVES TO ASIC UNDER SECTION 93AA OF THE ACT*

Name of parties	**EU number**	**Date**	**Type of Advice**	**Issues Alleged by ASIC**	**Undertakings given**
2006					
American International Assurance Company (Australia) Ltd	017029191	24/1/06	Distribution of Life Insurance	Failed to supervise and audit client files of representatives Failed to ensure the integrity of representatives' training records Failed to ensure Non English speaking clients could understand insurance documents Did not discipline representatives who breached internal compliance guidelines Did not adequately record all client complaints and expressions of dissatisfaction Inadequate handling of cold calling and anti-hawking behaviour	Re-invigorate training programs across the organization Maintain and update a compliance program Ensure disclosure documents for non English speaking clients are clear and effective Comply with cold call and anti-hawking rules Withdraw misleading advertising material Properly record training and consumer complaint data Engage independent expert to conduct audit and respond to recommendations.
AIA Financial Services Ltd	017029190	24/1/06	See above	AIA was a subsidiary of the same holding company as AIAC.	Both companies responsible for the same conduct
Transcomm Credit Co-operative Limited	017029194	28/3/06	Reverse Mortgage Products	Breaches related to the promotion, marketing, advertising and sale of Reverse Mortgage Products.	Fuller and clearer disclosure and transparency in marketing documents

				False and misleading statements that among other things the product has no impact on pension entitlements; had safeguards to stop negative equity in residence occurring and that the debt ceiling or final balance owed would not exceed 50% of the estimated property value (when contract allowed it to reach 80%).	Explain errors to existing clients Issue corrective advertisements Return disadvantaged customers to position they were in before entering the contract Engage independent expert to conduct audit and respond to recommendations.
Christopher Daws	017029199	25/5/06	Equities trading	Authorised representative permanently banned from industry for improper conduct as a securities broker Banning order overturned by AAT which further directed an enforceable undertaking be given outlining conditions for reentry to industry as an adviser	No trading on personal or associated accounts All direct share orders to be authorized by AFS Licensee prior to execution No dealings with clients related to corporate matters Records of all client dealings to be kept Trading activities report to be provided to supervisor fortnightly.
AMP Financial Planning Proprietary Ltd	017029200	27/7/06	Superannuation Switching advice	AMPFP advisers advised some clients to switch investments in industry super funds into superannuation products of related AMP companies and some failed to abide by internal procedures in doing so. Foe example, disclosure of a reasonable basis for the advice was inadequate in approximately 45% of the AMPFP files selected by ASIC for audit; There was at times a failure to inform the client about remuneration and other interests that might reasonably be	Revise the relevant sections of its professional standards manual to include clear instructions to advisers on their obligations when recommending a switch in financial products; Identify and invite all clients who either received and acted on super switching advice related to industry superannuation; or were given advice

				capable of influencing the advice given and additional information required when the advice recommended the replacement of one product with another; Some Statements of Advice did not adequately identify or disclose the significant consequences of replacing existing products with the recommended product including the different value of ongoing costs between the existing product and the recommended AMP product. Statements on the AMP website and in its disclosure documents suggested that AMPFP advisers could advise in relation to Australia's 11 largest superannuation funds which may have been misleading, given advisers were not permitted to give advice to purchase those superannuation products and were limited to providing advice on AMPFP's approved product list There was a possible failure to have adequate arrangements to manage conflicts of interest, given the related nature of the AMP companies involved and the tendency for switches towards AMP Flexible Lifetime – super product.	to reduce contributions; cease contributions or exit a retail superannuation fund and commence contributions to another recommended superannuation fund to have their advice reviewed by an internal review team; If the advice is deemed unreasonable then AMPFP must offer to re-credit to the current superannuation product an amount equal to any loss suffered Transfer the current superannuation balance back to the original fund or if not possible to another fund of the client's choice; Ensure the client's life insurance arrangements are not adversely affected when compared to the original insurance held. If the advice is deemed reasonable, but the client does not agree or any offer made is rejected, then the matter must be referred to dispute resolution. Implement training in the revised operations for all relevant employees, officers and advisers. Appoint an independent expert to undertake a review and report.
Patersons Securities Limited	017029204	5/12/06	Equities/Shares	Failed to provide over 500 clients with written advice about share purchases.	Engage independent expert to conduct audit and respond to recommendations

				Poor investment performance of some portfolios. Discretionary accounts operated without appropriate authority Exposed client s to significant risk from share price fluctuations Unathorised derivatives transactions Failure to advise clients of exposure to increasing losses Implementing options positions contrary to requested portfolio Failure to advise of risks of derivatives and ensure suitability of investment to client Misleading responses to client queries Inadequate systems and procedures to supervise advice and prevent unauthorized discretionary trading on client accounts Failure to train and induct new staff and supervise file transfers between Licensees.	

Name of parties	EU number	Date	Type of Advice	Issues Alleged by ASIC	Undertakings given
2007					
First Capital Financial Planning	017029207	11/5/2007	Superannuation Switching advice	Advice given to 170 teachers to switch from their state government superannuation to a superannuation fund recommended by First Capital. The fees payable in the recommended fund were significantly higher than the fees payable in the existing fund. The written advice was misleading and deceptive and did not disclose a reasonable basis for the advice because: It did not properly explain the differences in fees between the funds nor contain a comparison of the fees to be paid; On most occasions it did not contain details about insurance, including the associated costs, which was available to clients in the existing fund; It failed to highlight the impact higher fees and costs have on potential returns; and Gave misleading comparisons between the past performance of the two funds.	Write to all affected clients correcting the information they were given. Reimburse any client the losses incurred in returning to original fund.

*(information extracted from the ASIC website at www.asic.gov.au on 7 January 2008).

APPENDIX D5: TABLE OF PUBLISHED DECISIONS OF THE ADMINISTRATIVE APPEALS TRIBUNAL AND FEDERAL COURT 2006 - 2007 REVIEWING ASIC ENFORCEMENT DECISIONS AGAINST FINANCIAL ADVISERS AND AFS LICENSEES IN THE PROVISION OF ADVICE TO RETAIL CLIENTS*

Year	Decision	Unethical conduct alleged	Breaches of Ethical Principles Identified
2006	Daws and Australian Securities and Investments Commission [2006] AATA 321 (5 April 2006) and [2006] FCA 723 (24 May 2006)	• Changed adviser codes on buy orders to increase his commission • Placed share orders without client authority • Failed to disclose personal interests in recommending some share trades	• Integrity/professionalism/compliance • Integrity/professionalism/compliance • Integrity/professionalism/objectivity /compliance
	Nolan and Australian Securities and Investments Commission [2006] AATA 778 (11 Sept 2006)	• Had possession, control and custody of client monies against license conditions • Conducted a financial services business without proper authorizations during certain periods • Used client moneys to cover personal short sell transactions • Failed to ensure client funds were kept separate from company funds • Failed to repay client for sale of particular shares • Conducted discretionary share trading for clients against license conditions	• Integrity/professionalism/compliance • Integrity/professionalism/compliance • Integrity/professionalism/objectivity /compliance • Diligence/compliance • Diligence/Integrity/compliance Integrity/professionalism/compliance
	Dollas- Ford and Australian Securities and Investments Commission [2006] AATA 704 (15 Aug 2006) and [2006] AATA 835 (29 Sept 2006)	• Drafted and signed a letter purportedly from clients placing transfer request to rollover investment that they had initiated on hold for a period until further instructions could be obtained and without their consent	• Integrity/fairness/professionalism

	Hayes and Australian Securities and Investments Commission [2006] AATA 1506 (20 Dec 2006)	• Failed to provide statements of advice to clients in a timely manner, • Did not make adequate inquiries concerning his clients' personal circumstances; • Was unable to demonstrate an adequate assessment of his clients position before recommending to switch superannuation products; • Did not retain information or evidence, such as file notes, on client files to demonstrate reasonable enquiries had been made and that an assessment and comparison of information related to the enquires had been completed; • Did not discuss these circumstances or assessments in Statements of Advice; • Failed to compare the existing product with the new product, prior to making a recommendation to switch; and • Did not demonstrate adequate product knowledge and capacity to provide reliable advice.	• Diligence • Diligence/Knowledge • Diligence/Knowledge • Diligence/Knowledge • Fairness/Diligence/Knowledge • Diligence/Knowledge • Diligence/Knowledge

FOOTNOTES:

The information analysed in this table was extracted from www.austlii/databases/adminstrativeappealstribunal of Australia/decisions and www.austlll/databased/federalcourtofaustralia/decisions on 5 January 2008. To be relevant to the analysis, a case had be a review of an ASIC administrative decision to ban a financial adviser from providing financial advice to retail clients for particular period of time or to vary or terminate the License conditions of an Australian Financial Services Licensee**.** A total of 6 decisions by the AAT and FCA in 2006 and 2007 were identified as being relevant to this study, using the criteria outlined in Chapter 5. One decision of the AAT; ASIC v Daws [2006] FCA 723 (24 May 2006), was appealed by ASIC to the Federal Court, but a motion by ASIC to stay negotiations of an enforceable undertaking, as ordered by the AAT, was dismissed. As at the date of write up, there were no other listings for this matter before the Federal Court. Accordingly, only the AAT decision in relation to this matter was reviewed only. The matter of Dollas Ford [2006] was also the subject of two decisions by the AAT. Accordingly, of the six decisions identified, only four were reviewed to avoid a double count.

APPENDIX D.6: TABLE OF DECISIONS OF THE FINANCIAL OMBUDSMAN SERVICE 2006/07 – FINANCIAL PLANNING CATEGORY

Year	Month	Decision Type*	Date	Complaint No.	Type advice given** and Primary Area of Advice***	Other comments
2006	January	A	6/1/06	15638	Investment Seminar	
		A	27/1/16	15923	Equities/Shares	
		D	5/1/06	13905	General investment advice	none
		D	5/1/06	13402	General investment advice /Future performance	none
			5/1/06	14889	General Investment advice / Inappropriate advice	Linked to Determination of 8/1/07
	February	A	10/2/06	14883	Superannuation advice	none
		A	10/2/06	15307	General Investment advice Fee disclosure / inappropriate advice	none
		A	21/2/06	15917	General Investment advice /Non/disclosure of costs	none
		D	3/2/06	12078	Managed investment scheme/property syndication	none
		D	10/2/06	14733	Taxation//Failure to assess tolerance to Risk	none
		D	10/2/06	14665	Centrelink /fee disclosure	none
		D	10/2/06	15358	Managed investment scheme/ Tax effective scheme /Fee disclosure / poor service	none
		D	21/2/06	13700	Tax effective scheme	none
		D	23/2/06	14637	SMSF advice /poor service	none
		D	28/2/06	13341	General investment advice	none
		D	28/2/06	14143	General investment advice	none
	March	A	16/3/06	16045	SMSF advice	none
		D	10/3/06	16057	General investment advice -Disclosure / misrepresentation	none
		D	23/3/06	14144	General investment advice -Risk profile / inappropriate advice	none
		D	24/3/06	15292	Superannuation advice	none
		D	24/3/06	14172	Superannuation advice	none
		D	24/3/06	15483	General investment advice -Risk profile / inappropriate advice	none

		D	24/3/06	14537	General investment advice -Non disclosure / inappropriate advice	none
		D	24/3/06	13846	How to comply with previous determination	Linked to Determination on 5/5/05
		D	24/3/06	15101	General investment advice /Inappropriate advice	2 previous rulings 10/6/05 & 5/8/05
	April	D	5/4/06	14886	Warrants trading	none
		D	5/4/06	15882	Other Managed investment scheme / Agricultural scheme	none
		D	7/4/06	15210	Shares/ Equities advice	none
	May	A	12/5/06	14957	General investment advice /Inappropriate advice	none
		A	19/5/06	14491	Derivative products	none
		A	30/5/06	16507	General investment advice /Rebate trials	none
		D	19/5/06	15100	General investment advice /Poor advice	none
		D	30/5/06	14888	General investment advice /Inappropriate advice	Linked to Ruling in 2005
		D	30/5/06	15463	General investment advice /Inappropriate advice	none
	June	A	7/6/06	16412	General investment advice /Poor advice	none
		A	8/6/06	16381	(can't search)	none
		A	8/6/06	16382	Superannuation advice	none
		A	16/6/06	16208	(can't search)	none
		A	20/6/06	15856	Contracts for Difference	none
		A	20/6/06	16566	Superannuation advice	Linked to additional Adjudication on 30/6/06
		A	30/6/06	15819	General investment advice /Overcharging / poor advice	none
		A	30/6/06	16566	Superannuation advice	Linked to Adjudication on 20/6/06 so not recounted
		D	30/6/06	14069	General investment advice /Failure to follow instructions	none
		D	30/6/06	14788	General investment advice /Inappropriate risk profile	none
	July	A	13/7/06	15683	Insurance/Income protection policy	none

		A	12/7/06	15078	Retirement planning /Inappropriate advice	none
		A	12/7/06	15866	Contracts for Difference	none
		A	12/7/06	14014	General investment advice /Inappropriate advice	none
		A	13/7/06	15916	General investment advice /Monitoring investment portfolio	none
		A	20/7/06	15957	Margin Loan/Inappropriate advice	none
		A	21/7/06	14626	General investment advice /Inappropriate advice	none
		A	24/7/06	16324	Insurance/Income protection insurance	none
		A	24/7/06	15129	Superannuation advice	none
		A	28/7/06	13441	Gearing/ General investment advice	none
		D	17/7/06	14540	Retirement Planning /Pension accounts	none
		D	17/7/06	15841	SMSF advice/Inappropriate advice	none
		D	18/7/06	15643	SMSF advice/Inappropriate advice	none
		D	21/7/06	14314	Superannuation & tax advice	Linked to Supplementary Adjudication on 24/7/07
		D	24/7/06	13224	General investment advice /Poor financial advice & service	none
		D	24/7/06	14646	General investment advice /Inappropriate advice	none
	August	A	17/8/06	13608	Equities/Shares /Misrepresentation option trades	none
		A	28/8/06	15915	Insurance/ Misrepresentation on policy terms	none
		A	30/8/06	16585	SMSF Advice and misrepresentation	none
		D	10/8/06	15967	Equities/Shares /Online trading systems	none
		D	10/8/06	16122	Superannuation/ Inappropriate advice	none
	September	A	18/9/06	16144	Education services /the costs associated with the course	none
		D	5/9/06	15636	Equities/Shares /Online trading services	Linked to Determination on 13/9/06 for 15636
		D	11/9/06	15899	Contracts for Difference	Linked to Determination on 11/9/06 for 15400

		D	11/9/06	15400	Equities/Shares	Linked to Determination on 11/9/06 for 15899. However as it is a different matter it has been counted.
		D	13/9/06	15636	Equities/Shares	Linked to Determination on 13/9/06 for 15636 so not recounted.
		D	15/9/06	15552	Superannuation	none
		D	29/9/06	12139	Retirement Planning	Linked to Supplementary Determination of 2/3/07
	October	A	2/10/06	15886	Retirement planning/ Annuity advice	none
		A	13/10/06	16721	Investment seminar /Cost of education services	none
		A	9/10/06	15990	Managed investment scheme/property syndication - Timeshare investment	none
		A	13/10/06	16140	SMSF advice /Misrepresentation	none
		A	18/10/06	16118	Managed investment scheme/Timeshare	none
		D	2/10/06	15213	Gearing/Failure to disclose commissions	none
		D	2/10/06	13427	General investment advice /Negligent advice	none
		D	3/10/06	14637	Superannuation advice	Linked to Supplementary Determination of 19/7/07 on 14637
		D	5/10/06	13678	Superannuation advice	
		D	9/10/06	13247	Equities/Shares	none
		D	18/10/06	13541	General investment advice /Poor financial advice	none
		D	23/10/06	14810	Life insurance/ Inappropriate investment advice	none
		D	31/10/06	13679	SMSF advice/Inappropriate advice	Linked to Supplementary Determination of

						17/5/07
		D	31/10/06	15298	Retirement Planning/Inappropriate investment advice	none
	Novembe r	A	17/11/06	16392	Investment seminars /Costs of education services /	none
		A	17/11/06	13567	Warrants /Causation of loss – Third party liability	none
		A	17/11/06	13617	Warrants /Causation and amount of loss	none
		A	24/11/06	16135	Margin Loan/Inappropriate advice	Linked to Adjudication in May 2007
		D	20/11/06	15316	Derivatives/Poor service	none
		D	27/11/06	13117	General investment advice/Inappropriate advice	none
	Decembe r	A	4/12/06	16341	Superannuation / Inappropriate rollover advice and Non Disclosure of all Fees and commissions	
		A	6/12/06	14197	Superannuation/Margin Lending /Misrepresentation as to performance of portfolio	
		A	20/12/06	16598	General investment advice /Repayment of fees	Linked to Ruling of 17/7/06
		A	20/12/06	16600	General investment advice /Repayment of fees	Linked to Ruling of 17/7/06
		D	19/12/06	16371	General investment advice /Inappropriate advice	none
		D	29/12/06	12166	General investment advice /Fees, commissions and charges	none
2007	January	A	19/1/07	16072	General investment advice /Inappropriate advice	none
		A	29/1/07	16880	Investment seminar/ Cost of education program	none
		D	8/1/07	14718/19	General investment advice /Advice given to elderly clients – Need to give alternative advice	none
		D	8/1/07	14889	Supplementary determination – Fees and commissions	Linked to Determination of 15/1/06 so not recounted
	February	A	5/2/07	12206	Margin Loan/ Duty of care to monitor accounts and advice on margin calls	none

		A	9/2/07	12488	General investment advice /Inappropriate advice / Investment fees	none
		D	5/2/07	13453	Execution only services/ Inappropriate advice/ poor service	none
		D	9/2/07	13647	Margin Loan/Inappropriate advice	Linked to Supplementary Determination of 27/6/07
	March	A	29/3/07	16104	Retirement planning/ Centrelink	none
		A	29/3/07	16976	Managed Investment scheme	none
		A	30/3/07	16656/15874	General investment advice /Redemption of investment funds	none
		D	2/3/07	12139	Supplementary decision Inappropriate advice	Linked to Determination of 29/9/06 so not recounted
		D	19/3/07	17103	SMSF/ Unauthorised transfer of funds	none
	April	A	4/4/07	17081	General investment advice /Inappropriate advice	none
		D	27/4/07	16472	Margin Loan/Life Insurance/Inappropriate advice	none
	May	A	4/5/07	13491	Managed investment scheme/Tax effective investment	none
		A	8/5/07	16810	Superannuation/ failure to deposit cheques	none
		A	9/5/07	15849	Superannuation advice	none
		A	9/5/07	16619	Retirement planning/Inappropriate advice /Non disclosure	none
		A	11/5/07	16975	Superannuation/ cancellation of Life Insurance	none
		A	11/5/07	16135	Supplementary decision Calculation of loss	Linked to Adjudication of 24/11/06 so not recounted
		D	17/5/07	17221	Westpoint	See Further Analysis Appendix D.7
		D	17/5/07	17001	Westpoint	See Further Analysis Appendix D.7

		D	17/5/07	16818	Westpoint	See Further Analysis Appendix D.7
		D	17/5/07	13679	Supplementary Determination	Linked to Determination of 31/10/06 so not recounted
		D	17/5/07	13678	Superannuation/Assessment of Loss	Linked to Determination of 5/10/06 so not recounted
		D	18/5/07	15897	Superannuation/ Centrelink	None
		D	28/5/07	16301	Managed Investment Scheme/agricultural scheme /Failure to justify fees	None
	June	A	22/6/07	16819	Mortgage Insurance Advice	None
		A	26/6/07	15596	Superannuation Advice	None
		D	19/6/07	16685	Westpoint	See Further Analysis Appendix D.7
		D	27/6/07	13647	Supplementary determination	Previous Determination of 9/2/07 on 13647 so not recounted
	July	A	24/7/07	14626	Supplementary adjudication	Links to determination of 21/7/06 on 14626 so not recounted
		D	19/7/07	14637	Supplementary Determination	Links to Determination on 14637 on 3/10/06 so not recounted
	August	A	17/8/07	17937	Westpoint	See Further Analysis Appendix D.7
		D	1/8/07	16684	Westpoint Misrepresentation of risk	See Further Analysis Appendix D.7
		D	1/8/07	16868	Westpoint Misrepresentation of risk	See Further Analysis

						Appendix D.7
		D	13/8/07	16972	Westpoint Calculation of loss	See Further Analysis Appendix D.7
		D	22/8/07	17257	Westpoint Non/Disclosure	See Further Analysis Appendix D.7
		D	29/8/07	17289	Managed Investment Scheme /Mezzanine Finance	None
		D	29/8/07	17085	Westpoint Rollover advice	See Further Analysis Appendix D.7
		D	31/8/07	16823	Westpoint – Rollover advice	See Further Analysis Appendix D.7
		D	31/8/07	16657	General investment advice /Deceased Estate Claim	None
		D	31/8/07	17056	Westpoint	See Further Analysis Appendix D.7
2007 cont …	Septembe r	A		None		None
		D	4/9/07	16518	Equities/Shares Stock Broking – Unauthorised sale of shares	None
		D	4/9/07	16662	Westpoint/ Nondisclosure of risk	See Further Analysis Appendix D.7
		D	5/9/07	15640	Equities/ Shares Unauthorised trading	
		D	24/9/07	17602	Westpoint/ Misrepresentation of Guarantee	See Further Analysis Appendix D.7
		D	24/9/07	17521	Westpoint /Misrepresentation of Guarantee	See Further Analysis Appendix D.7
		D	24/9/07	17057	Westpoint /Misrepresentation of Guarantee	See Further Analysis Appendix D.7
	October	A	10/10/07	16879	Retirement Planning /Calculation of early maturity benefit Under Retirement Security Plan	None
		A	22/10/07	17504	General investment advice /Poor advice and service	None
		A	31/10/07	16689	Equities/Shares Unauthorised transfer of shares – Duty of care	None
		A	31/10/07	17726	Superannuation/ Fee disclosure	None

		D	31/10/07	16170	Equities/Shares trading via SMSF	None
	November	A	15/11/07	17084	Managed investment scheme/Duty to provide s949A warning	None
		A	23/11/07	17943	General investment advice /Failure to process withdrawal request	None
		A	26/11/07	17486	General investment advice /inappropriate asset allocation	None
		D	2/11/07	17123	Westpoint/ Non disclosure of risk	See Further Analysis Appendix D.7
		D	2/11/07	17029	Westpoint /inadequate research	See Further Analysis Appendix D.7
		D	9/11/07	16993	SMSF advice	None
		D	9/11/07	16190	General investment advice	See Further Analysis Appendix D.7
		D	9/11/07	16171	SMSF advice/Inappropriate advice	None
		D	9/11/07	16788	Westpoint /Non disclosure of risk and fees	See Further Analysis Appendix D.7
		D	15/11/07	17298	Westpoint /Inadequate research	See Further Analysis Appendix D.7
		D	22/11/07	17245	Westpoint /Misrepresentation of risk	See Further Analysis Appendix D.7
		D	28/11/07	16938	Westpoint /Non disclosure of fees	See Further Analysis Appendix D.7
		D	28/11/07	16985	Westpoint /Inappropriate advice	See Further Analysis Appendix D.7
		D	30/11/07	17889	Equities/ Shares Suitability of advice to invest in private company	None
		D	30/11/07	18067	Equities/ Shares Suitability of advice in Pty Ltd company	None
		D	30/11/07	17754	Managed investment scheme/ Property Trust	None
	December	A	12/12/07	17518	Government Bonds	None
		D	3/12/07	17301	Westpoint / Subsequent rollover	See Further Analysis Appendix D.7
		D	21/12/07	17134	Westpoint /Misrepresentation of risk	See Further Analysis Appendix D.7

FOOTNOTES: LEGENDS USED IN ANALYSIS

Decision Type*	List of Types of advice given **	List of areas of primary complaint ***	List of Outcomes ****
D= Determination A= Adjudication	a) General Financial Planning Advice b) Westpoint c) Superannuation d) Other Managed Investment schemes /Agricultural schemes e) Inhouse financial products and platforms f) Investment Seminars g) Margin Lending h) Equities/Share advice i) Self Managed Superannuation Fund (SMSF) advice j) Centrelink k) Retirement Planning l) Warrants m) Derivative products n) Contracts for Difference o) Insurance/Risk	1. Inappropriate investment advice unsuitable to meet client objectives 2. Conflict of interest 3. Non Disclosure of Fees and Commissions 4. Inadequate or no written advice 5. Inappropriate rollover advice 6. Failure to monitor investment Performance 7. Misrepresentations associated with advice 8. Failure to advise of risk or give warnings associated with advice 9. Failure to ensure strategy matched tolerance to risk 10. Product Research not conducted adequately 11. Excessive Fees/ Charges 12. Churning/ Misselling of financial product 13. Failure to understand needs of special needs clients 14. Failure to meet service commitments	I. Finding for member II. Compensation payable to consumer III.

APPENDIX D.7: ANALYSIS OF PRIMARY TYPES OF UNETHICAL CONDUCT BY FINANCIAL ADVISERS FROM THE DECISIONS BY AUSTRALIAN COURTS AND ASIC FOR THE PERIOD 2006/07

No.	Theme	Summary of types of unethical conduct within theme	Primary ethics principles associated with unethical conduct	Civil Law Cases	ASIC/AAT Banning Orders	ASIC EU*	Total
1	Investigation of client's personal circumstances	inadequate assessment of personal and financial circumstances and objectives	Competence	12	5	0	17
		inadequate assessment of risk tolerance	Competence	6	0	0	6
2	Research into product/strategy	lack of financial product research/ No independent research conducted	Competence/Diligence	7	3	0	10
		lack of understanding of financial product	Competence	8	5	0	13
		Failure to conduct due diligence of Company behind product/scheme/strategy	Diligence	7	1	0	8
3	Appropriateness of Advice	No reasonable basis for advice and did not meet objectives or circumstances	Competence/Objectivity	7	17	4	28
		inadequate explanation and examination of risks associated with investment	Competence/Diligence/ Fairness	9	8	2	19
4	Suitability of Advice	failure to tailor advice to client/use of template documents	Competence/Diligence	6	2	1	9
		inappropriate financial product and strategy recommended	Competence	0	4	2	6
5	Disclosure obligations	failure to disclose remuneration/benefits	Objectivity/Integrity	6	8	2	16

		failure to manage/ disclose conflicts of interest	Objectivity /Fairness	0	6	1	7
		failure to disclose information relevant to client decision	Objectivity /Diligence/ Fairness	6	11	5	22
		inappropriate reliance by adviser on general advice warnings	Objectivity /Fairness	7	0	0	7
		failure to provide disclosure documents such as a PDS in a timely fashion or at all	Competence/Diligence/ Professionalism	0	3	0	3
6	Recommendations/ Advice	inadequate or no written advice	Diligence/Fairness	0	10	2	12
		inappropriate use of marketing letters to generate business sales	Integrity /Fairness	6	0	0	6
7	Implementation/ Dealing	Discretionary dealing without client consent	Integrity/Professionalism	0	8	3	11
		failure to execute or act on client instructions	Diligence/ Professionalism	0	1	2	3
		falsifying/ completion of application forms on behalf of client	Integrity /Diligence	0	1	0	1
8	Monitor and Review portfolio	failure to monitor and review portfolio/product/scheme and issuer performance	Competence/Diligence/ Fairness	1	0	0	1
		failure to monitor regulator action in relation to financial product/ responsible entities and issuer performance	Diligence	7	0	0	7
9	Management/ Administration	provision of documents with errors	Diligence	0	0	0	0
		failure to maintain proper records in relation to advice	Diligence	0	5	5	10

		and transactions					
		failure to provide services as promised	Diligence	1	0	0	1
		failure to follow internal procedures and policies of Licensee	Integrity /Diligence	0	4	9	13
10	Other Integrity Issues	misleading statements as to performance, product features or security, business reputations	Integrity/Professionalism	18	14	3	35
		using client funds for own purpose	Integrity/Professionalism	0	29	0	29
		dishonesty in client relationship	Integrity/Professionalism	0	4	0	4
		falsifying documents/signatures	Integrity/Professionalism	0	11	0	11
		misleading statements as to risks associated with financial products	Integrity/Professionalism	13	1	2	16

FOOTNOTES*

Some enforceable undertakings relate to systemic unethical conduct and advice to numerous clients. However, only one breach was counted per undertaking. Each breach was not multiplied by the number of clients affected.

APPENDIX D.8: ANALYSIS OF FOS DECISIONS RELATED TO WESTPOINT CONSUMER COMPLAINTS HEARD BETWEEN 2006/2007

No.	Date	FICS No.	Summary of alleged unethical conduct*	Breaches of Ethical principles identified**
1	17/5/07	17221	• Active promotion of scheme as capital guaranteed and safe when not • Did not provide a SOA • Failed to disclose fees and commissions received • Advice unsuitable investment vehicle for child maintenance trust • Failure to assess tolerance to risk • Inappropriate attempts to limit scope of advice to transaction/ dealing • Failure to conduct due diligence and independent product research • No adequate explanation of risks associated with investments • Complaint upheld – member liable for compensation	Int/Prof Dil/Fai Obj/Int Kno/Dil/Obj Kno Obj/Fai/Pro Kno/Dil Kno/Dil/Fai **18**
2	17/5/07	17001	• Inappropriate advice given to single aged pensioner to invest in high risk product – no reasonable basis for advice • Provision of oral advice only, did not provide an soa • Failed to disclose fees and commissions received at 6% plus gst • Failure to assess tolerance to risk • Inappropriate attempts to limit scope of advice to transaction/ dealing as evidenced by execution only authority to proceed • Provision of disclose documents like pds in untimely manner and after investments made • Failure to diversify portfolio • Failure to conduct due diligence and independent product research • No adequate explanation of risks associated with investments • Received poor service • Complaint upheld – member liable for compensation	Kno Dil/Fai Obj/Int Kno Obj/Fai/Pro Kno/Dil Kno/Dil Kno/Dil/Fai Dil **17**

3	17/5/07	16818 SMSF advice	• Inappropriate advice given to a self funded retiree to invest proceeds of sale of property in high risk product – no reasonable basis for advice • Provision of oral advice only, did not provide an soa • Failed to disclose fees and commissions • Failure to assess tolerance to risk • No provision of disclosure documents like fsg • Failure to diversify portfolio • Failure to conduct due diligence and independent product research • No adequate explanation of risks associated with investments • Complaint upheld – member liable for compensation proportionate to responsibility for advice	Kno Dil/Fai Obj/Int Kno Kno/Dil Kno/Dil Kno/Dil/Fai **13**
4	19/6/07	16685 Gearing advice/Low Income	• Inappropriate advice for single 58 year old mother to invest in high risk product via a gearing strategy • Failure to ensure client could clear debt from gearing loan and develop exit strategy • Failure to conduct due diligence and independent product research • No adequate explanation of risks associated with investments, general risk warnings given but not specific to product. • Product misrepresented as capital guaranteed fixed interest product • Complaint upheld – member liable for compensation	Kno/Dil Kno Kno/Dil Kno/Dil/Fai Int/Pro **10**
5	1/8/07	16684 SMSF	• Advice given in association with establishment of smsf • Inappropriate advice given to invest in high risk product when objective was to obtain long term capital growth of superannuation– no reasonable basis for advice • Failure to diversify portfolio • Product misrepresented as capital guaranteed fixed interest product • Transferred Westpoint product originally owned by other clients to super fund before client authority received and in circumstances where this could not occur	 Kno Kno/Dil Int/Pro Dil Kno/Dil Kno/Dil/Fai

			• Failure to conduct due diligence and independent product research • No adequate explanation of risks associated with investments, general risk warnings given but not specific to product. • Complaint upheld – member liable for compensation	**11**
6	1/8/07	16868	• Inappropriate advice given to retirees with smsf in their 70's whose objective was to maintain living standards during retirement– no reasonable basis for advice • Failed to conduct adequate investigations into clients' circumstances • Misled as to risks associated with product • Active promotion of scheme as capital guaranteed and safe when not • Failure to assess tolerance to risk • No provision of pds disclosure documents • No recommendation made in original soa about product, inadequate advice given subsequently • Failure to diversify portfolio • Failure to conduct due diligence and independent product research • Complaint upheld – member liable for compensation proportionate to responsibility for advice	Kno Kno Int/Pro Int/Pro kno Kno/Dil Kno/Dil/Obj Kno/Dil Kno/Dil **16**
7	13/8/07	16972 SMSF	• Advice given in association with establishment of smsf • Clients invested in Westpoint following presentation by Westpoint representative at adviser's premises and rolled over investment to another Westpoint product following letter from Westpoint company to do so. • Complaint dismissed against member	None identified against adviser
8	17/8/07	17937 NESB elderly clients	• Advice given to Non English speaking clients aged 70 and 64 • Inappropriate advice given to invest in high risk product for elderly clients assessed as moderately conservative – no reasonable basis for advice • No adequate explanation of risks associated with investments and potential loss of capital, general risk warnings given but not specific to product. • Failure to diversify portfolio • Failure to conduct due diligence and independent product research	Kno/Pro Kno/Dil/Fai Kno/Dil Kno/Dil

			• No adequate explanation of risks associated with investments, general risk warnings given but not specific to product and context of client’s needs and objectives. • Advice only documented after investment made - product issued before authority to sign and SOA prepared and delivered • Payment for the investment forged • Failure to conduct due diligence and independent product research • Inappropriate attempts to limit scope of advice to transaction/ dealing as evidenced by execution only authority to proceed	Dil Int/Pro Kno/Dil Obj/Fai/Pro **12**
9	22/8/07	17257	• Inappropriate advice given to invest in high risk product – no reasonable basis for advice • Use of generic SOA not tailored to specific client • Failed to disclose fees and commissions • Failure to recommend investments that suited tolerance to risk or objectives • Product misrepresented as capital guaranteed fixed interest product • Failure to monitor product performance and be aware of regulator and other action in relation to product issuers • Provision of disclose documents with errors • Failure to conduct due diligence and independent product research such as no indepth research into Westpoint’s capacity to meet the guarantees and failure to meet development timelines. • No adequate explanation of risks associated with investments • Received poor service • Complaint upheld – member liable for compensation	Kno Kno/Fai/Int Obj/Int Kno/Obj Int/Pro Int/Pro/Fai/Dil Dil Dil Kno/Dil/Fai Dil **20**
10	29/8/07	17085	• Rollover advice to withdraw from one financial product and invest in another • Inappropriate advice given to conservative/balanced investors seeking moderate capital growth – no reasonable basis for advice • Use of generic SOA not tailored to specific client • Failure to recommend investments that suited tolerance to risk or objectives leading to too much exposure in high risk products • Product misrepresented as capital guaranteed fixed interest product • Failure to monitor product performance and be aware of regulator and other action in relation to product issuers	Kno Dil/Fai Kno/Kno/Obj Int/pro Int/Pro/Fai/Dil Dil Dil

			• Provision of disclosure documents with errors • Failure to conduct due diligence and independent product research when recommending clients reinvest in subsequent Westpoint properties near date when company fails • No adequate explanation of risks associated with investments • Inappropriate attempts to limit scope of advice to transaction/ dealing • Failure to maintain supporting documents on file to demonstrate research/enquiries made • Complaint upheld – member liable for compensation	Kno/Dil/Fai Obj/Fai/Pro Dil **21**
11	31/8/07	16823 SMSF advice	• Rollover advice given to reinvest in subsequent Westpoint properties near date (3 months) when company fails • Inappropriate advice given – no reasonable basis for advice • No documentation suggesting client's personal circumstances investigated • Oral advice given only, No written advice given • Failure to recommend investments that suited tolerance to risk or objectives leading to too much exposure in high risk products • No adequate explanation of risks associated with investments • Failure to monitor product performance and be aware of regulator and other action in relation to product issuers • Failure to conduct due diligence and independent product research when recommending clients • No adequate explanation of risks associated with investments • Inappropriate attempts to limit scope of advice to transaction/ dealing • Provision of advice in product not on approved product list of AFS Licensee • Failure to maintain supporting documents on file to demonstrate research/enquiries made • Complaint upheld – member liable for compensation	Dil Kno/Obj Kno Dil/Fai Kno/Dil/Obj Kno/Dil/Fai Int/Pro/Fai/Dil Dil/Kno Obj/Fai/Pro Int/Dil Dil **24**
12	31/8/07	17056	• Advice given in association with smsf • Inappropriate advice – failure to consider other suitable alternative	Kno/Obj Int/Pro

		SMSF advice	investments • Product misrepresented as capital guaranteed fixed interest product • Failure to recommend investments that suited objectives leading to too much exposure in high risk products • No adequate explanation of risks associated with investments • Use of generic SOA not tailored to specific client • Failure to disclose some investments made through use of inhouse investment trust • Failure to conduct due diligence and independent product research when recommending to clients • Complaint upheld – member liable for compensation	Kno/Obj Kno/Dil/Fai Obj/Fai Kno/Dil/Fai **14**
13	4/9/07	16662 SMSF advice	• Advice given in association with smsf • Inappropriate advice given to invest in high risk product – no reasonable basis for advice • Use of generic SOA's not tailored to specific client • Failure to recommend investments that suited tolerance to risk or objectives • Failure to conduct due diligence and independent product research when recommending clients reinvest in subsequent Westpoint properties near date (2 weeks before) company fails • Product misrepresented as capital guaranteed fixed interest product • Failure to monitor product performance and be aware of regulator and other action in relation to product issuers • Failure to account for investment monies when transaction not executed in timely manner • No adequate explanation of risks associated with investments • Complaint upheld – member liable for compensation	 Kno Dil/Fai Kno/Obj Dil/Kno Int/Pro Int/Pro/Fai/Dil Dil/Pro Kno/Dil/Fai **18**
14	24/9/07	17602	• Inappropriate advice given to invest in high risk product – no reasonable basis for advice • Failure to recommend investments that suited tolerance to risk or objectives • Failure to provide numerous disclosure documents and written advice • Failure to conduct due diligence and independent product research when	Kno Kno/Obj Kno/Dil/Fai Kno/Dil

			recommending clients invest in Westpoint properties near date (4 months before) company fails • Failure to monitor product performance and be aware of regulator and other action in relation to product issuers • No adequate explanation of risks associated with investments • Complaint upheld – member liable for compensation	Int/Pro/Fai/Dil Kno/Dil/Fai **15**
15	24/9/07	17521	• Inappropriate advice given – no reasonable basis for advice • No documentation suggesting client's personal circumstances investigated • Oral advice given only, No written advice or other disclosure documents provided • Failure to recommend investments that suited tolerance to risk or objectives leading to too much exposure in high risk products • No adequate explanation of risks associated with investments • Failure to disclose fees and commissions • Failure to monitor product performance and be aware of regulator and other action in relation to product issuers • Complaint upheld – member liable for compensation	Kno Kno Dil/Obj Kno/ Obj Kno/Dil/Fai Obj/Int Dil/Int/Pro/Fai **14**
16	24/9/07	17057	• Inappropriate advice given – no reasonable basis for advice • Failure to provide written advice and material on which to make informed decision • Failure to properly assess tolerance to risk or client's objectives • Product misrepresented as capital guaranteed fixed interest product • Failure to conduct due diligence and independent product research when recommending clients invest in Westpoint properties • No adequate explanation of risks associated with investments • Failure to disclose fees and commissions • Complaint upheld – member liable for compensation	Kno Fai Kno Int Kno Fai Obj **14**
17	2/11/07	17123	• Advice given in association with smsf • Inappropriate advice given to conservative investors to invest and reinvest in	 Kno

		SMSF advice	high risk product when objective was security of capital– no reasonable basis for advice • Failure to properly assess tolerance to risk or client's objectives • SOA's did not contain recommendations for all Westpoint investments made. Oral advice given instead • Failure to diversify portfolio • Failure to provide revised portfolio recommendations as promised • Failure to monitor investment performance despite assurances to do so • Product misrepresented as capital guaranteed fixed interest product • Failure to conduct due diligence and independent product research • Failure to monitor product performance and be aware of regulator and other action in relation to product issuers • No adequate explanation of risks associated with investments and reinvestments. • Complaint upheld – member liable for compensation	Kno/Obj Dil/Fai Kno/Dil Dil Kno/Dil Int/Pro Kno/Dil Kno/Pro/Dil/Fai Kno/Dil **20**
18	2/11/07	17029	• Inappropriate advice given to 70 year old conservative investors to invest and reinvest in high risk product when objective was security of capital– no reasonable basis for advice • Failure to properly assess tolerance to risk or client's objectives • Generic SOA's used, not client specific • Failure to diversify portfolio • Product misrepresented as capital guaranteed fixed interest product • Failure to conduct due diligence and independent product research • Failure to monitor product performance and be aware of regulator and other action in relation to product issuers given some reinvestments recommended as late as 3 months from administration • No adequate explanation of risks associated with investments and reinvestments. • Non disclosure of fees and commissions • Did not provide copies of all material relevant to decision making such as PDS • Complaint upheld – member liable for compensation	Kno Kno Kno/Fai/Int Kno/Dil Int/Pro Kno/Dil Dil/Int/Pro/Fai Kno/Dil/Fai Obj/Fai Kno/Dil **22**

19	9/11/07	16788	• Advice to rollover Westpoint investment to another Westpoint fund • Adviser handling Westpoint enquiries against Licensees wishes • Complaint dismissed against the member as adviser not authorised by them at relevant times	Int/Dil/Obj Int/Dil **5**
20	15/11/07	17298 SMSF advice	• Advice given in association with smsf • Did not assess whether promissory note was appropriate to smsf • Failure to properly assess tolerance to risk or client's objectives • SOA was generic in nature and was not tailored to specific client • Failure to diversify portfolio with 25% of total invested in Westpoint products despite low income earners • Did not have a correct understanding of the investment • Product misrepresented as capital guaranteed fixed interest product • Failure to conduct due diligence and independent product research such as Westpoint's capacity to meet any guarantee given to related companies • No adequate explanation of risks associated with investment and risks in fact "talked down" • Use of misleading statements in disclaimers to influence clients not to pursue rights. • Complaint upheld – member liable for compensation	 Kno Kno/Obj Kno/Obj Kno/Fai/Int Dil/ Kno, Int/Pro Dil/Kno Kno/Int/ Fai Int/ Pro/Fai **21**
21	22/11/07	17245 Gearing Advice	• Inappropriate advice given to gear using investment loan with primary residence as collateral – no reasonable basis for advice • Failure to diversify portfolio – 100% placed in Westpoint • Failure to properly assess tolerance to risk or client's objectives • SOA was generic in nature and was not tailored to specific client • Investments made prior to consent of clients received • Failure to disclose fees and commissions paid • Provision of disclosure documents with errors • Inappropriate attempts made to reclassify personal advice as general advice • Product misrepresented as "safe and secure" capital guaranteed fixed interest product	Kno/Dil/Fai Kno/Dil Kno Kno/Dil Kno Kno/Fai/Int Dil Dil Obj/Fai/Pro Int/Pro

			• Failure to conduct due diligence and independent product research • Documents designed to highlight returns and minimise lack of security • No adequate explanation of risks associated with investments. • Complaint upheld – member liable for compensation	Kno/Dil Int/Pro **23**
22	28/11/07	16938	• Westpoint investments made without advice but was personal choice of clients • Complaint dismissed	None Identified
23	28/11/07	16985 SMSF advice	• Advice given in association with smsf and personal investments • No reasonable basis for advice • Failure to properly assess tolerance to risk or client's objectives • SOA was generic in nature and was not tailored to specific client • Product misrepresented as capital guaranteed fixed interest product • Failure to provide disclosure documents prior to investment being mad • Inappropriate attempts to limit scope of advice to transaction/ dealing • Failure to conduct due diligence and independent product research • No adequate explanation of risks associated with investments. • Complaint upheld – member liable for compensation	Kno Kno/Obj Kno/Fai/Int Int/pro Obj/Fai/Pro Kno/Dil Kno/Dil/Fai **16**
24	3/12/07	17301	• Adviser represented numerous AFS Licensees • Failed to advise client of changes to representative status • Inappropriate advice given invest and reinvest in high risk product when objective was security of capital– no reasonable basis for advice • Product misrepresented as capital guaranteed fixed interest product • Failure to conduct due diligence and independent product research • No adequate explanation of risks associated with investments and reinvestments. • Complaint upheld – member liable for compensation	Int/pro Kno Int/pro Kno/Dil Kno/Dil/Fai **10**
25	21/12/07	17134 Gearing advice	• Inappropriate advice given to prudent investors to invest in high risk product purchased through gearing strategy using family home– no reasonable basis for advice	Pro Kno Kno/Fai/Int Kno/Obj

			• SOA was generic in nature and was not tailored to specific client • Failure to properly assess tolerance to risk or client's objectives • Product misrepresented as capital guaranteed fixed interest product • Failure to conduct due diligence and independent product research • No adequate explanation of risks associated with investments. • Complaint upheld – member liable for compensation	Kno/Dil Kno/Dil/Fai 14

FOOTNOTES

****Numerical identification codes for breaches of Ethical Principles and the ethical principles themselves are outlined in Appendix C.10.**

Legend: Primary areas of alleged unethical conduct*
1) Inappropriate advice/ no reasonable basis for advice 2) Failure to diversify portfolio 3) Failure to properly assess tolerance to risk or client's objectives 4) SOA was generic in nature and was not tailored to specific client 5) Investments made prior to consent of clients received 6) Failure to disclose fees and commissions paid 7) Provision of disclosure documents with errors 8) Inappropriate attempts made to reclassify personal advice as general advice 9) Product misrepresented as "safe and secure" capital guaranteed fixed interest product 10) Failure to conduct due diligence and independent product research **11)** No adequate explanation of risks associated with investments 12) Did not have a correct understanding of the investment 13) Failure to provide revised portfolio recommendations as promised 14) Failure to monitor investment performance despite assurances to do so 15) Failure to monitor product performance and be aware of regulator and other action in relation to product issuers

APPENDIX D.9: PRIMARY AREAS OF ALLEGED UNETHICAL CONDUCT BY FINANCIAL ADVISERS FROM WESTPOINT COMPLAINT ANALYSIS

No.	Theme	Summary of types of unethical conduct within theme	Primary ethics principles associated with unethical conduct	Common Law Cases	FOS	ASIC	Total
1	Investigation of client's personal circumstances	inadequate assessment of financial circumstances	Competence	6	3	1	10
		inadequate assessment of risk tolerance	Competence	6	15	0*	21
		failure to investigate capacity to repay debt	Competence	0	1	0	1
		failure to understand personal/financial objectives	Competence	6	0	0	6
2	Research into product/strategy	lack of financial product research/ No independent research conducted	Competence/Diligence	6	19	6	25
		lack of understanding of financial product	Competence	7	1	0	8
		Inadequate knowledge of Managed Investment Scheme structure	Competence/Diligence	6	0	0	6
		Failure to conduct due diligence of Company behind product/scheme/strategy	Diligence	7	19	0	26
3	Appropriateness of Advice	No reasonable basis for advice	Competence/Fairness	6	17	8	31
		Advice did not meet client objectives or circumstances	Competence/Objectivity	6	12	8	26
		inadequate explanation and examination of risks associated with investment	Competence/Diligence/ Fairness	7	19	0	25
		inadequate diversification/asset allocation within portfolio/strategy	Competence/Diligence	6	9	0	15
4	Suitability of Advice	failure to tailor advice to client/use of template documents	Competence/Diligence	7	9	0	16
		inappropriate strategy	Competence/Diligence	1	5	0	6
		poor use of gearing strategies	Competence/Diligence	7	3	0	10
		inappropriate financial product recommended	Competence	7	22	4	33
5	Disclosure obligations	failure to disclose remuneration/benefits	Objectivity/Integrity	6	8	2	16
		failure to manage/ disclose conflicts of interest	Objectivity /Fairness	0	1	1	2
		failure to disclose other information relevant to client decision	Objectivity /Diligence/ Fairness	0	1	0	1
		inappropriate reliance by adviser on general	Objectivity /Fairness	12	7	0	19

		advice warnings					
		failure to provide disclosure documents such as a PDS in a timely fashion or at all	Competence/Diligence/ Professionalism	0	5	1	6
6	Recommendations/ Advice	inadequate or no written advice	Diligence/Fairness	0	8	0	8
		inappropriate use of marketing letters to generate business sales	Integrity /Fairness	6	0	0	6
7	Implementation/ Dealing	Discretionary dealing without client consent	Integrity/Professionalism	0	0	0	0
		failure to execute or act on client instructions	Diligence/ Professionalism	0	0	0	0
		investments made prior to client consent	Diligence	0	2	0	2
		falsifying/ completion of application forms on behalf of client	Integrity /Diligence	0	0	0	0
8	Monitor and Review portfolio	failure to monitor and review portfolio/product/scheme and issuer performance	Competence/Diligence/ Fairness	7	7	0	14
		failure to monitor regulator action in relation to financial product/ responsible entities and issuer performance	Diligence	7	6	0	13
9	Management/ Administration	provision of documents with errors	Diligence	0	3	0	3
		failure to maintain proper records in relation to advice and transactions	Diligence	0	3	0	3
		failure to provide services as promised	Diligence	1	2	0	3
		failure to follow internal procedures and policies of Licensee	Integrity /Diligence	0	2	0	3
10	Other Integrity Issues	misleading statements as to performance, product features or security, business reputations	Integrity/Professionalism	26	15	6	47
		using client funds for own purpose	Integrity/Professionalism	0	0	1	1
		dishonesty in client relationship	Integrity/Professionalism	0	2	1	3
		falsifying documents/signatures	Integrity/Professionalism	0	1	0	1
		misleading statements as to risks associated with financial products	Integrity/Professionalism	6	1	0	7

*0 denotes failure to identify conduct from the reasons for decision of the decision maker

APPENDIX D.10: TRANSCRIPT OF FOCUS GROUP SESSION

Conducted: Asgard Board Room, Level 7, 570 Collins Street Melbourne
6 February 2008 12.30pm (17 participants plus one facilitator)

Facilitator

Thank you for participating in this focus group. The agenda for our session is as follows: to give you an overview of the PhD study, two: to review the context of the research, three: to discuss the role of the focus group and your role as a participant, four: to consider the questions to be asked of the group and individual participants and five: to summarise what analysis will be completed and where to from here?

The purpose of this focus group is to look at behaviour and conduct in a different way to how it is normally viewed by compliance officers, that is: through check list, process and procedure. Your role today is to, if you like, form a focus group to try to identify what you believe the current ethical issues facing Financial Planners are, and then some reflection on what you believe the ethical issues are that currently face you in your role as a Compliance Manager.

There may be a number of similarities in terms of how you all view the issues facing Planners and there may also be some similarities concerning the ethical issues facing yourselves and Planners, that's perfectly fine.

Our third objective is to look at some of the factors that might be influencing ethical decision making in the provision of advice to clients as well.

Today is not about reaching solutions, we've only got an hour, and what we will do is spend just 15 minutes on each topic identifying very quickly the top five issues you think are relevant to each category. Then what we are going to do is spend some time grouping them on butchers paper. What we will do then is once we've grouped them, we will try to rank those issues that we think should be one through to five. And then my job from today will be to go away and collate that data, because we wont have a chance to do it today. I will then give you a summary report on: how you've ranked the issues, what categories you have placed them in as against the FPA's Code of Ethics and which issues you think deserve more priority. You may also be able to use the data going forward in this group's work going forward.

The work you will do today will also form part of my PhD, through the International Centre for International Corporate Governance Research, Victoria University. The study is being supervised by Professor Anona Armstrong and Professor Ronald Francis. Adam has provided you all with a Powerpoint presentation that outlines for you the nature of the research, where this focus group fits into that research and what the outcomes of that research will be. The focus group is also being conducted in association with the Financial Planning Association of Australia Ltd.

The research will use surveys/focus groups and other analysis to examine six things: the types of ethical issues that financial planners and compliance managers believe they face in the provision of advice to clients; how financial planners and compliance managers identify and resolve ethical dilemmas; the cognitive frameworks they use to make decisions; the tools and decision making frameworks they rely on; the dynamic between the participant and the organisation for whom they work, including the perceptions participants have of the ethical climate and culture of the organization; and any perceived gaps between the ethical values of the adviser, the compliance manager and the organisation for whom they work.

It will ask are there differences between financial planners and compliance managers in terms of their perceptions of ethical dilemmas and ethical culture and ethical climate and are there differences associated with age, experience, gender & education level?

The study is being conducted in stages set out in the powerpoint. This focus group forms part of stage three.

In terms of context, I believe the study is important for a number of reasons not least being the sheer amount of money being invested in Australia; the overlap between the law, compliance and ethics and the debate on co regulation and fiduciary duties.

The ethical climate of an organisation is a component of organisational culture. It helps to determine what employees/advisers believe constitutes ethical behaviour at work, which issues employees/advisers consider to be ethically pertinent; and what criteria they use to understand, weigh and resolve issues.

The focus groups I will run will form a critical part of the research. They will involve both financial planners and compliance officers. Participation is voluntary and will take approximately 1/2 hour to 45 minutes of your time. The discussions of the focus groups will be taped and transcribed. Participants will not be identified by name in any published report from this study. All individual responses will be aggregated. This is because we are interested in patterns and overall perceptions across the focus groups, not the individual responses of any one participant.

The information from the sessions may be shared with the FPA, for the purposes of developing content in their professional standards program. We are interested in your perceptions and views as industry participants and I in particular am interested in the snap shot the information gives me. What I can tell you is, you're not obligated if you don't want to, answer any of the questions today, you can feel free to pull out at any time you want. I will give you a summary of the results as a group. I am not interested in individual responses, I am only looking at aggregated data and there will be no identification of any of you as against your responses. You may decline to answer any question asked. You may also withdraw from the focus group at any time. Your individual answers will be kept confidential. Whilst we are unable to pay you for your participation, on its completion, you may request a summary of the study's key findings.

So as I have said previously, the questions to be asked of you today are as follows:

Question 1 – What are some of the ethical issues you believe financial planners currently face in the provision of advice to clients?

Question 2 – What are some of the ethical issues you believe compliance managers currently face in their roles?

Question 3 – What are some of the factors that you believe may be influencing the ethical decision making of both financial planners and compliance managers in their roles?

I ask that you all sign a consent form that notifies you that I have explained to you the purpose of the study, where it fits into your own work, the obligations you have and the obligations I have in relation to that. The purpose of the letter is so that I can demonstrate to my examiners and to the University that each of you have understood the purpose of the study and what will happen to your data. So please don't worry, there's no publishing of this material independently from today.

The other important thing about today, is there are no right or wrong answers. The objective is to generate ideas and then to generate discussion. If we come to some consensus about what the ethical issues are and how they can be ranked and then priority at the moment within the industry that's fantastic, but it's not essential.

I've called this a focus group because empirically speaking that's really what this group is, but also empirically speaking it's like a group interview. And the techniques we'll use are group nominal theory and a Delphi Technique, and as I said to you, what we will start doing is looking at 3 questions, you will each provide an individual response to those questions and then we will spend some time grouping those responses and then we will then move to individually ranking them. I then will take the data away. So that's really all you need to know. Please read the powerpoint presentation for further assistance if needed.

What I wanted to relay to you is that any member of FPA may obtain one professional development point for participants, and I really think it will be fascinating for you in terms of your own work as financial advisers and compliance officers, just to start to look at culture within your organisations and within your planning groups and how leaders within organisations such as yourselves can impact on and influence the culture. It will be fascinating to look at your own views of what the ethical issues are and then look at what your planning group says.

So the three questions again:

1. What are some of the ethical issues you believe financial planners currently face in the provision of advice?
2. What are the ethical issues you believe compliance officers face in their roles?
3. What are some of the factors you believe maybe influencing the ethical decision making of both financial planners and compliance officers?

We are going to kick off with the first question, Question 1. You have in front of you some Post-it notes. All I'm going to ask you to do is just write on a separate Post-it note your top three, the top three ethical issues you believe financial planners currently face. One for each Post-it note. So by the time you have finished this you should each have three post-it notes. Everyone's got a pen? You can start that while I…., if you have any questions along the way please ask me. There's no right or wrong answers and gut reaction is fine. Sometimes it can be harder than you think as well, my role today is just to facilitate, but it is amazing when you are starting just how hard it can be to think of them.

(participants spend some time itemising their top three issues for question 1)

How are we going, have you got three? It might be that you feel there's only one issue and that's fine as well its only up to three, so don't feel any pressure to come up with more.

How are we going? So, the consensus view is we've got three? Now what we're going to do with the help of all of you, and my coloured blue tack, is… just around the room we are going to place 8 pieces of butchers paper. Each has a heading from the FPA Code of Ethics and if you don't know there's 8: Integrity, which includes issues of honesty; Objectivity; Diligence; Competence; Confidentiality; Professionalism; and Fairness. And what I want you to do is take your three issues on your Post-it notes, and place each of your Post-it notes under the heading that you think it most directly corresponds to. We can also have a piece of butchers paper that says ‘Other’ because it may be you feel that the issue doesn’t really correspond to an issue of honesty, or an issue of Objectivity, perhaps even commissions or Diligence, a Competence issue, Fairness, Diligence, Confidentiality, Professionalism or Compliance. It may well be “Other”, in which case we’ll put it on the butchers paper with ‘Other’ on it.

Who wants to help me put up the butchers paper? Thank you. I’ve written headings on butchers paper over here, so if you want to just come over and grab the top sheet. So now come and line up and put your Post-it notes where you think they best fit. Hopefully you can read not only my writing but the context. Thank you helpers.

Participant - “Where’s Other”?

Facilitator - Good point, “Other” is on the floor. Here’s a piece of paper for “Other”, we can just stick that up here.

(participants spend some time placing their three issues under the nine categories for question 1)

Facilitator - And now you should feel free to just have a wander once you’ve put your post it notes up, and have a look at the other responses that are up there because your next job is to rank. Go across all of the Post-it notes and determine which you think are the top 5 issues. And they may be yours, you may decide to put a mark against all of yours, or you may decide to take on board somebody else’s issues.

Participant - “Do we put a number on it (the postit note itself or the butchers paper)?”

Facilitator - What I can do if you would like, is I can walk around each one and I can tell you what is there, or you can have a look for yourselves and then either grab some stickers (numbered) or a pen and go across each one: 1,2,3,4,5. You

only need to mark five, but use numbers, because then I need to rank how many number 1's I get, how many number 2's, how many number 3's. So take some time to do that. Okay so I'll repeat .. that's right, so you need to look at each sheet and the Post-it notes on them and I want you to rank the top 5 issues you believe come out of those post-it notes, but it doesn't have to be the top 5 against each of our headings, it's just the top 5 across the lot.
(participants spend some time considering all issues on Post-it notes and then ranking the top 5 issues)

Facilitator - Ahh yes that's a big issue. Don't you love husband and wives.

Participant – Can you just go through it again – do you want numbers on under each heading or just across the board?

Facilitator - It might also be that what you want me.... overall, the one overall. yes, ... what you need to do is across all of the 9 sheets of paper find the 5 top issues, rank them 1,2,3,4,5 according to which one you think is the most important, it doesn't have to be a number on every sheet, and it doesn't have to be 5 on every sheet. So it's just the 5 you think overall. The figures, that's right. We've grouped them against the nine headings to try to help going forward with my study and areas of policy work you might want to do, thats all. Have you got enough stickers?

Participant – some of the post – it note issues are very similar to mine?

Facilitator - Now there may be some that are similar, that's fine, because I'll do the groupings later, so don't worry if two of them look the same. For example we will probably have a lot of switching and churning ones, so don't worry about that. Just list your top 5 issues overall. Okay thanks for that, that's fantastic.

Facilitator - Now my role will be to go away and work out whether or not there are any similarities on the Post-it notes and group them if I have to. And also then assess your rankings and bring you back a summary report of what they are. Now that we've got the hang of it, and while we are waiting for the others to finish, our next task is to do 3 more Post-it notes, and this time what we are talking about is: What are the three top current issues you believe face Compliance Managers in their role. If the consensus of the group is they really don't alter from those facing the Planners, then that's an answer on its own. But if it is different please write it on the Post-it note.

Facilitator - And then once you have your Post-it notes done, because some of these (the butchers paper sheets used for question 1) are a little bit short on, I'm sure some of your Post-it notes will fit on the same piece of paper, and for those that don't, that have quite a few, I'll put up a new piece of paper. Again it might be that 'Other" is a category this time around that you want to use. We need a new one for Fairness, a new one for Integrity, a new one for Diligence, and a new one for Objectivity I can see.

The question for you is: What are the current ethical issues that you believe face Compliance Managers in their role within your organisation. And as I said before it may be you feel some of them are the same as the ethical issues that are facing advisors, it might also be that there are some significant differences, so have a think about it.

(participants spend some time itemising their top 3 issues for question 2)

Facilitator - Okay once you've got your post-it notes ready, the same groupings apply so please just go and place your post-it notes on, under any of the relevant headings. I've made whole new sheets of Fairness, Objectivity, and Integrity, and I'll do a new one for Diligence now. Otherwise post-it notes under Confidentiality, Competence, Compliance, and Other can just go on the same piece of paper we had before where I have made space and re headed. So we won’t start numbering again until everybody is finished, I think there are still some more to come. Once again it is the same procedure as before, where we rank the five current issues: what you think the most important issue is facing compliance officers in terms of ethics at the moment, your second ranked one, your third, fourth and fifth across all of the groups.

(participants spend some time placing their issues on the butchers paper under the 9 category headings)

Facilitator - Okay are we all finished, no names, no pack drill…. I think we’ve got enough stickers left for those amongst us that like using them, there should be enough stickers, so once again I think we can now..... If you want to come up and grab some stickers, or take your pen around and again the same procedure, have a look at all the individual responses and then decide “now which one do I think is the most important ethical issue facing compliance officers, which do I think is the second, third, fourth, fifth ranked one”. And just use the time to reflect on other peoples answers. It might be very interesting to see just how similar you all are in terms of the issues you are facing at the moment.

(participants spend some time ranking the issues on the butchers paper)

Facilitator - Have we got any similarities coming up, are there some that even look the same? You must have channelled that across the room. If the group would like me to, what I can do is actually identify every response to every question, and then provide you with the assessment as well. It’s up to you how you would like me to report back. Because you might feel you would like a chance to sort of a look at all of them again.

Facilitator - One of my jobs will be to pull out the themes for you, as well as the rankings, so we’ll certainly do that. How are we going (with the ranking)? .....

What we are doing is a consensus exercise, and it's about attitude as well and perception, so there won't be definitive answers. My job because we've had only a short time to do it, will be to look for the themes and to group the data so that you can see where the themes are, and as across each of the different ethical principles. The reason I grouped them according to the ethical principles today was because that's how I'm doing the FICS data as well….looking to see if there are any breaches of those principles within the cases.

Participant – I'm worried I will just repeat what I have already written…..

Facilitator - Hands up if you think that the responses to Question 3 won't be any different to the responses you have already given…. perhaps I can reframe that question: is there any factor in the industry at the moment you think is influencing ethical decision making, that you haven't seen on the board to date around the room.. You know what, with your permission what we might do at this time then is just run a group discussion on question 3 and I will run around with my microphone and each of you will get a chance in turn to answer the question verbally and build on the answers of the other participants. So I think if we open it up to group discussion you might get more out of it. Is everyone happy with that rather than going through the same process we have followed for the first two questions?

Participants – Agree with a unanimous show of hands.

Facilitator - So participant 1, would you like to start? What are the factors you believe are influencing the ethical decision making of financial planners and compliance managers?

Participant 1 - I think it's that there… its probably we have identified a lot of individual factors about ethical issues…but there are some over arching ones and the first part is it doesn't matter whether you are in a small practice, medium or a large size practice, most of us have some stake in the business somewhere along the line, and so you've got that business versus absolute compliance dilemma.

Participant 2 - Following on from the previous discussion I think that there are 2 major aspects that influence ethics being management and the support that they give to compliance and good ethics in the business. Secondly the environment in which the business operates, which is principally in my view the expectations of clients to be treated fairly, and also the laws in which we operate in Australia.

Participant 3 - I think what drives the industry is what profits them the most, what the greatest profit margin as opposed to what the greatest priority or needs are for the clients, and that's where the conflict lies.

Participant 4 - One observation I would like to make is that there seems to be a growing emphasis on process, and that doesn't necessarily mean that the ethical side of things is followed as long as the process is followed.

Participant 5 - I feel as though the pressure to make a sale as against the ethics, quite often over rules a decision.

Participant 6 - Yes I agree I think that the question of management's responsibility is most relevant particularly in the establishment of sales targets, and particularly when they're based on volume of rewards and other remuneration arrangements. I think that is one of the major influences as far as an overall ethical culture within the business.

Participant 7 - Following on from what was just said earlier about the process. I think it's actually a very good point because in the drive to make businesses more efficient there has been a lot attempts made to stream line the process, make it 'monkey see, monkey do', all the way through compliance and that can tend to impact on the ability of compliance officers to really get to know the businesses and make sure that the advisors are behaving in the utmost best practice rather than just business practice.

Participant 8 - One of the difficulties we have to labour under is that a lot of publicity is given in a certain quarter to advisors who have done the wrong thing. Its gets a lot of publicity and that creates pressure and expectations in the minds of clients who, I don't know whether you strike it or whether the advisors strike it, but there must be some impact on clients who get a bit suspicious shall we say… who say we don't want to deal with an advisor. And I think that creates a bit of a problem in trying to implicate the "right attitude" in the minds of the advisors.

Participant 9 - I think one of the problems, the ethical problem, is that there is actually no definition of ethics… it's a subjective decision. One person's ethical decision is another person's commercial decision, and unfortunately a whole lot of different factors affect how people make an ethical decision and if they don't agree with me they're wrong.

Participant 10 - I would just like to make a comment about the overwhelming conflict of interest I think has a huge impact across our industry. Fees, charges, disclosure, ownership both of practices and dealer groups and product. Also, I think there is a wide range of interpretation, of what is and isn't allowable under various legislation. I think a more cohesive industry focus would certainly assist that. Although, when you've got parties coming from different focuses, from your very commercial versus your very ethical, it can be very difficult to get a consensus in that.

Participant 11 - I think a major factor is insufficient resources that could influence ethical decision making. A Compliance Manager or a Financial Planner may take some short cuts in their process just because of a lack of resources.

Participant 12 - I think one of the dilemmas or one of the factors is that a role as a Compliance Manager,… you are really the moral conscience of the organisation and that sometimes doesn't relay on easily when you are dealing with people that are very sales driven. That's one issue, I guess the other thing is getting the respect in terms of when you do bring something to the table, that it is a value add thing and that it's not perceived as a restriction on doing business.

Participant 13 - I just wanted to add that there are two issues. One is self preservation and the one second is business sustainability. There was a comment before about the changing factors, and I think that's getting bigger and bigger in our industry where smaller to medium sized licensees face far greater financial burdens than they ever have in the past so therefore there is a need to change and to make change.

Participant 14 - One of the main issues that I see, and I think that it's been mentioned, is the link between advice channels and distribution channels, and the influence that has on compliance.

Participant 15 - I think I have previously talked about the value and it's very easy to see value being placed on income coming in through the door, but it's very difficult to place a value on ethics. I think that a business that does place a high value on ethics and honesty and good advice will in the long term get value for that ethics, but in the short term that may not be the case. And so that is where it's difficult to place a value on ethics.

Participant 16 - I am a Responsible Officer, Financial Planner and Compliance Manager for my own business. So my business is my life and in that sense it's really about not just ethics but doing the right thing by your client. And you realise that with the Centro's and Westpoint's you can have all the best researchers in the world, and do the most credible due diligence, but there is always that risk out there. That one day a finger can get pointed and that it's just a question of going out there and doing the best thing by your client and crossing your fingers.

Participant 17 - I just add one final comment and that relates to - are we really on the right track in respect to when we talk about conflicts of interest and some of these other related issues, because we are talking about product. And if you were to compare this industry with some of the other industries, one product from another product, and ….are they really doing the right or the wrong thing? It becomes, …. it's the perception of the other person who is actually acquiring it. Like, whether you want to buy a Toyota or a Mitsubishi which is going out of production. And I guess some of these issues really ought to be taken into consideration because who can say whether one product is better than another product. If we look at it, of about the 3,000-5,000 products that are available, of those, there's a good 200-300 which are almost incomparable, that are all about the same standard. So what is wrong with one as against the other? That's a dilemma that we all face?

Facilitator - And Basis Capital may be the next cab of the rank too. Certainly for me, we're going to have a busy year. We're right on time, thank you so much. I hope you got value out of today. What I think will happen is you will get even more value when you see the analysis. And if after you see the report you'd like some further work done, or you would like to narrow down or redefine your rankings; decide if there are any particular projects you would like to work on, that's fantastic as well.

I'll certainly have the report ready for the next meeting of this group, which is usually in 2 months time, is it?.......well it will be ready before then, so I'll send it to (Chair) and it can be distributed to the group.

Thank you very much for your time, and I think we are on time. If anyone has any questions you all know my email address if you've got any queries. And if you can just pass to me the actual consent form.

Okay thank you very much for attending today.

APPENDIX D.11: GENERAL OUTCOMES OF THE FOCUS GROUP SESSION

6 TABLE 1: ITEMISATION OF THE PARTICIPANTS' ANSWERS TO QUESTION 1 - WHAT ARE THE CURRENT ETHICAL ISSUES FACING FINANCIAL PLANNERS?

Resp. No.	Facilitator's proposed Grouping by Primary Theme	Ethical Issues Identified by the focus group participants
1	**Honesty**	To be honest
2		Time critical misuse for adviser convenience (licensee defines "time critical" for their convenience)
3	**Links to Distribution Networks**	Is the advice influenced by specific investment houses
4		Distribution versus Production/Manufacture. How do tied advisers deal with their own products
5		Links between product and advice channels and incentives to place business with particular product providers
6		Independence or not i.e. Bank Planner or own licence
7		Restrictions on product offering via Approved Product Lists
8	**Client Interest**	Advice must be bulky so as to justify fees and use jargon phrases not the truth or client specifics.
9		Determining an appropriate risk tolerance for clients
10		Dealing with clients expectations of Returns versus Risk in asset allocations
11		To always act in best interest of client
12		Limiting advice unfairly to advice more suitable to advisers interests rather than clients
13		Changing asset allocation based on client requirements when it is in conflict with risk rating (addressing gap analysis)
14	**Conflict of Interest**	Conflict between clients interests and those of the adviser
15		Conflict of interest eg: product – ownership of dealer groups by larger organisations/ fund managers
16		Objectivity in APL ("Approved Product Lists") (and conflicts of interest)

17		Conflict of interests: only recommending linked fund managers products, products from APL
18		To be unbiased
19		Conflict/ pressure of time – the need to produce income for themselves (and licensee). Conflict/ the desire to provide appropriate advice and appropriate researches presents ad strategy. Pressure/conflict of the Licensees Approved Product List and possible quotas
20	**Disclosure**	The work involved to produce an advice document that discloses all the information the client really needs to know versus what the client will accept from the adviser.
21		Disclosure – ownership, products, fees and charges and the impact on the ability to service clients
22		Poor disclosure of commissions. Taking advantage of clients low understanding of fee structure
23		The way fees are disclosed
24	**Business Imperatives**	Licensee dictates topics for review, thereby stopping certain issues from being addressed or mentioned
25		Conflicts with Funds Under Management, Superannuation Funds and $. Getting business to really understand the required program / resources required to be implemented. Simplification of disclosures
26		Business sustainability in the medium to long term
27	**Remuneration Structures**	How much to charge clients for advice? Is leveraging off previous work okay when deciding charges?
28		Paying ↑ Commissions products versus paying ↓ commission products
29		Fees, commissions or both
30		Remuneration – enticements through soft dollar; clients lack of awareness/understanding; commission versus fee
31		non-cash remuneration (gift from clients)
32		Dealer group remuneration – conflicts of interest
33		Product restrictions fees versus commissions
34		Fees/ charges/ trail commissions, impact on profitability and ongoing servicing of clients
35		Level of fees (ongoing service) i.e. different clients paying different fees, (for the same services), priority etc.
36		Overcharging for service provided (especially ongoing review fees)
37		Volume of attention given to volume or incentive payments

38	**Churning/Switching**	Switching
39		Advice is driven by quota not quality
40		Churning / twisting, switching
41		Life insurance inside or outside Super and the upfront commissions
42	**Research and Ratings**	Research and ratings
43	**Risk management trade offs**	Settling a client complaint when advice is appropriate, but less costly than dealing with FICs.

8	TABLE 2: ITEMISATION OF THE PARTICIPANTS' ANSWERS TO QUESTION 2 - WHAT ARE THE CURRENT ETHICAL ISSUES FACING COMPLIANCE MANAGERS IN THEIR ROLES?	
Resp. No.	**Facilitator's proposed grouping by theme**	**Ethical Issues Identified By Focus Group Participants**
1	**Links to distribution networks**	Independence of function i.e. completely detached from any product advice influence
2		Issue facing Compliance Manager – link between distribution of related product and maintaining the Licensee's compliance
3		Distribution owned businesses and the approved product list use
4	**Client interests**	Dilemma of how 'Reasonable Basis' is interpreted by some
5	**Conflict of interest**	Conflict between employer and employee for the role in enforcing rules and profit
6		The drive for sales overrides the interests of clients (i.e. inappropriate advice)
7		Sales distribution versus compliance. Different rules depending on how much funds an adviser has under management – conflict
8		Avoiding internal conflict eg. Sales versus Compliance
9		Conflict of interests facing dealership and planners and development of appropriate compliance program
10	**Disclosure**	Preparation of effective and compliant disclosure documents (SOA, FSG, PDS)
11	**Business Imperatives**	Competing with other business goals of: restricted products; soft $; platforms
12		Business needs versus compliance responsibility. Increasing demand for profitability across corporate environments, i.e. head office overseas – do they understand Australia's complex compliance framework?
13		Business versus. Budgets, best practice
14		Elevate priority of resourcing for compliance monitoring
15		Issues facing Compliance Manager - recording identified issues versus the work required to address them
16		Being pressured into changing business rules to suit advisers and Licensee's performance objectives
17		Lack of time / resources to review compliance process – continuous improvement. "Just do what we've always done"

18		Sacking of compliance department/ teams for commercial reasons. 6-12 months no internal compliance, then rebuild. Should need to report to ASIC
19		Issues for compliance manager. Time pressure – to be able to cover all recognised compliance matters
20	**Churning/Switching**	Provision of impartial advice in an environment where there is clear incentive for planners to switch/ transfer investments
21	**Risk management trade offs**	Risk management versus planners. Behaviour in complaint handling
22		Compliance Manager – possible pressure from management favouring large producer/ earner for the licensee
23		Issues facing Compliance Manager - cancelling authorisation of high risk adviser who brings a lot of revenue to the business
24		PI Insurance terms versus Limited Risk in advice. Erring on the side of caution to limit claims
25		Compliance manager – Check processes that are based on samples and samples are not sufficient to provide true result
26		Definition of significant breach – conflict between compliance staff and Company Directors/ Licensee/ Responsible Managers
27		Disciplining advisers when their performance is inadequate from a compliance perspective i.e. not being pressured into taking a soft approach by management for advisers who are non-compliant
28	**Independence**	Allowing the compliance manager to provide an independent opinion without pressure from senior management on appropriateness of products
29		compliance makes the rules and then checks their own implementation. Compliance should be independently audited.
30	**Competency**	Manage “competence” i.e. advisers work within skill/ product range ethically
31		Knowledge, training and skilling of Compliance Managers
32		Lack of continuous training / PD undertaken by advisors
33		Keeping abreast of the new and updated Rules and Regulations
34		Lack of diligence in following procedures by advisers
35		Pressures from ever expanding legislative frame work
36	**Stakeholder Perceptions**	Damage to profession by Westpoint, etc, leading to increased expectations of Compliance Managers and due diligence
37		Compliance is still thought of as predominantly audit and reviews rather than being proactive and having the clout to be able to do the function as intended

38		Harmonious relationship with Licensee and common goal or objective
39		Lack of sincere support from management for compliance and risk issues
40		Encourage dialogue – reporting of breaches (etc)

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APPENDIX D.12: TABLES COLLATING SCORES FOR FOCUS GROUP RESPONSES

10 Table 1: Itemisation of the participants' answers to Question 1 – What are the current ethical issues facing financial planners?				
Resp. No.	**Ethical Issues Identified – Participant Comments**	**Ranking given by Participant**	**Score (1=5 points, 2=4 points, 3=3 points, 4=2 points and 5=1point)**	**Total**
1	To be honest	1, 1, 1, 1, 1,2, 2, 4, 4	25+8+4	37
2	Is the advice influenced by specific investment houses	2, 2, 3, 4, 5	8+3+2+1	14
3	The work involved to produce an advice document that discloses all the information the client really needs to know versus what the client will accept from the adviser.	2, 2, 2, 3, 3,3, 4, 5	12+9+2+1	24
4	Distribution versus Production/Manufacture. How do tied advisers deal with their own products	1, 2, 2, 3, 4,4	5+8+3+4	20
5	Links between product and advice channels and incentives to place business with particular product providers	2, 4, 5, 5, 5	4+2+3	9
6	Must be bulky so as to justify fees and use jargon phrases not the truth or client specifics.	2, 3, 4, 4, 4, 5	4+3+6+1	14
7	Licensee dictates topics for review, thereby stopping certain issues from being addressed or mentioned			0
8	Determining an appropriate risk tolerance for clients	1, 1, 1, 1, 1, 1, 1, 4, 5	35=2=1	38
9	Independence or not i.e. Bank Planner or own licence	1, 2, 2, 2, 2, 2	5+20	25
10	Settling a client complaint when advice is appropriate, but less costly than dealing with FICs.	3, 3, 3, 3, 3	15	15
11	Conflicts with Funds Under Management, Superannuation Funds and $. Getting business to really understand the required program / resources required to be	2, 5, 5	4+2	6

	implemented Simplification of disclosures			
12	Conflict between clients interests and those of the adviser	1, 3	5+3	8
13	How much to charge clients for advice? Is leveraging off previous work okay when deciding charges?	4, 4, 3	4+3	7
14	Disclosure – ownership, products, fees and charges and the impact on the ability to service clients	1, 1, 1, 2, 3, 4	15+4+3+2	24
15	Remuneration – enticements through soft dollar; clients lack of awareness/understanding; commission versus fee	2, 4	4+2	6
16	Conflict of interest eg: product – ownership of dealer groups by larger organisations/ fund managers	1, 1, 1, 1, 1, 1	6x5	30
17	non-cash remuneration (gift from clients)			0
18	Dealer group remuneration – conflicts of interest	4		2
19	Product restrictions fees versus commissions	1, 3, 3, 3	5+9	14
20	Dealing with clients expectations of Returns versus Risk in asset allocations	2, 4	4+2	6
21	paying ↑ Commissions products versus paying ↓ commission products	2, 4	4+2	6
22	Fees, commissions or both	2, 2, 2, 3, 5	14+3+1	18
23	Objectivity in APL ("Approved Product Lists") (and conflicts of interest)	2, 3	4+3	7
24	Conflict of interests: only recommending linked fund managers products, products from APL	3, 3	3x2	6
25	Advice is driven by quota not quality	3, 3, 3, 3, 3, 5	15+1	16
26	Switching	2, 2, 2, 2, 2, 2	4X6	24
27	To always act in best interest of client	1, 1, 1, 1, 1, 1, 1, 1, 1, 2, 5	45+4+1	50
28	Fees/ charges/ trail commissions, impact on profitability and ongoing servicing of clients	2, 5, 5	4+1+1	6
29	Poor disclosure of commissions. Taking advantage of clients low understanding of fee structure	3, 3, 3,	3X3	9

30	Churning / twisting, switching	1, 1, 1, 3	15+3	18
31	The way fees are disclosed			0
32	Life insurance inside or outside Super and the upfront commissions			0
33	Level of fees (ongoing service) i.e. different clients paying different fees, (for the same services), priority etc.	1, 4, 4	5+4	9
34	Time critical misuse for adviser convenience (licensee defines "time critical" for their convenience)	4, 4, 4	3X2	6
35	Limiting advice unfairly to advice more suitable to advisers interests rather than clients	1, 1, 2, 2, 2, 5	10+14+1	25
36	Overcharging for service provided (especially ongoing review fees)	2, 2, 3	8+3	11
37	Volume of attention given to volume or incentive payments	2, 2	2x4	8
38	Business sustainability in the medium to long term	1, 1, 3	10+3	13
39	Restrictions on product offering via Approved Product Lists	1, 2, 3, 5	5+4+3+1	13
40	Research and ratings	1, 3, 5, 6	5+3+1+0	9
41	Changing asset allocation based on client requirements when it is in conflict with risk rating (addressing gap analysis)	2, 2, 2, 3, 4	12+3+2	17
42	To be unbiased	2, 2, 3, 4, 4, 4, 5	8+3+6+1	18
43	Conflict/ pressure of time – the need to produce income for themselves (and licensee). Conflict the desire to provide appropriate advice and appropriate researches presents ad strategy. Pressure / conflict of the Licensees Approved Product List and possible quotas	1, 1, 1, 1, 1, 1, 1, 3, 3, 3, 5	35+9+1	45

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Table 2: Itemisation of the participants' answers to Question 2 – What are the current ethical issues facing compliance managers in their roles?

Resp. No.	Ethical Issues Identified – Participants' Comments	Ranking given by Participants	Score (1=5 points, 2=4 points, 3=3 points, 4=2 points and 5=1point)	Total
1	Risk management versus planners. Behaviour in complaint handling	1, 2, 2, 4	5+8+2	14
2	Definition of significant breach – conflict between compliance staff and Company Directors/ Licensee/ Responsible Managers	1	5	5
3	Issues facing Compliance Manager – recording identified issues versus the work required to address them	5	1	1
4	Independence of function i.e. completely detached from any product advice influence	1, 1, 3, 3, 3, 3	10+12	22
5	Issues facing Compliance Manager – cancelling authorisation of high risk adviser who brings a lot of revenue to the business	2, 5	4+1	5
6	Issue facing Compliance Manager – link between distribution of related product and maintaining the Licensee's compliance	4	2	2
7	Business needs versus compliance responsibility. Increasing demand for profitability across corporate environments, i.e. head office overseas – do they understand Australia's complex compliance framework?	1, 1, 1, 2, 2, 2, 5	15+12+1	28
8	Allowing the compliance manager to provide an independent opinion without pressure from senior management on appropriateness of products	1, 4	5+2	7
9	Conflict between employer and employee for the role in enforcing rules and profit	3	3	3
10	Competing with other business goals of: restricted products; soft $; platforms	2, 3, 4	4+3+2	9

11	Disciplining advisers when their performance is inadequate from a compliance perspective i.e. not being pressured into taking a soft approach by management for advisers who are non-compliant	1, 1, 1, 1, 1, 1, 1, 2	35+4	39
12	Manage "competence" i.e. advisers work within skill/ product range ethically	2, 2, 2, 2, 2	20	20
13	Sales distribution versus compliance. Different rules depending on how much funds an adviser has under management – conflict	1, 2	5+4	9
14	The drive for sales overrides the interests of clients (i.e. inappropriate advice)	1, 1	10	10
15	PI Insurance terms versus Limited Risk in advice. Erring on the side of caution to limit claims	3, 4	3+2	5
16	The compliance makes the rules and then checks their own implementation. Compliance should be independent – to some extent (i.e. accountants and auditors)	4	2	2
17	Business versus. Budgets, best practice	3, 4, 5, 7	3+2+1+0	6
18	Preparation of effective and compliant disclosure documents (SOA, FSG, PDS)	2, 2, 3	8+3	11
19	Being pressured into changing business rules to suit advisers and Licensee's performance objectives	1, 1, 2, 2, 4	10+8+2	20
20	Keeping abreast of the new and updated Rules and Regulations	3	3	3
21	Lack of time / resources to review compliance process – continuous improvement. "Just do what we've always done"	2, 3, 3, 4	4+6+2	12
22	Lack of sincere support from management for compliance and risk issues	1, 1, 1, 1, 1, 1, 2	30+4	24
23	Ever expanding legislative frame work		0	0
24	Compliance is still thought of as predominantly audit and reviews rather than being proactive and having the clout to be able to do the function as intended	2, 3, 4, 4, 5	4+3+4+1	12
25	Compliance Manager – possible pressure from management favouring large producer/ earner for the licensee	1, 2, 3, 5	5+4+3+1	13
26	Compliance manager – Check processes that are based on samples and samples are not sufficient to provide true result	2, 3, 4, 5	4+3+2+1	10

27	Damage to profession by Westpoint, etc, leading to increased expectations of Compliance Managers and due diligence	1, 1, 1, 1, 1, 1	6x5	30
28	Elevate priority of resourcing for compliance monitoring	3, 3, 4, 5	6+2+1	9
29	Knowledge, training and skilling of Compliance Managers		0	0
30	Harmonious relationship with Licensee and common goal or objective	1, 2	5+4	9
31	Lack of continuous training / PD undertaken by advisors	2, 3, 3, 3, 4	4+9+2	15
32	Distribution owned businesses and the approved product list use	5	1	1
33	Provision of impartial advice in an environment where there is clear incentive for planners to switch/ transfer investments / super	1, 1, 1, 1, 1, 1, 2, 3, 3	30+4+6	40
34	Avoiding internal conflict eg. Sales versus Compliance	2, 2, 2, 3	12+3	15
35	Conflict of interests facing dealership and planners and development of appropriate compliance program	2, 3, 3, 4	4+6+2	12
36	Dilemma of how ‘Reasonable Basis’ is interpreted by some	2, 4, 4	4+4	8
37	Encourage dialogue – reporting of breaches (etc)	2, 3, 4	4+3+2	9
38	Issues for compliance manager. Time pressure – to be able to cover all recognised compliance matters	3, 3, 4, 4, 5, 5	6+4+2	12
39	Lack of diligence in following procedures by advisers	1, 1, 1, 2, 2, 3	15+8+3	26
40	Sacking of compliance department/ teams for commercial reasons. 6-12 months no internal compliance, then rebuild. Should need to report to ASIC	1, 1, 1, 2	15+4	19

16 Table 3: Collation of participants' responses to Question 1 against the nine ethical principle categories and ranking.			
Ethical Principle	**Resp. No.**	**Participants' Comments**	**Ranking**
Integrity	1	To be honest	1, 1, 1, 1, 1,2, 2, 4, 4
	2	Is the advice influenced by specific investment houses	2, 2, 3, 4, 5
	3	The work involved to produce an advice document that discloses all the information the client really needs to know versus what the client will accept from the adviser.	2, 2, 2, 3, 3,3, 4, 5
	4	Distribution versus Production/Manufacture. How do tied advises deal with their own products	1, 2, 2, 3, 4,4
	5	Links between product and advice channels and incentives to place business with particular product providers	2, 4, 5, 5, 5
	6	Must be bulky so as to justify fees and use jargon phrases not the truth or client specifics.	2, 3, 4, 4, 4, 5
	7	Licensee dictates topics for review, thereby stopping certain issues from being addressed or mentioned	
Competence	1	Determining an appropriate risk tolerance for clients	1, 1, 1, 1, 1, 1, 1, 4, 5
	2	Independence or not i.e. Bank Planner or own licence	1, 2, 2, 2, 2, 2
	3	Settling a client complaint when advice is appropriate, but less costly than dealing with FICs.	3, 3, 3, 3, 3
Objectivity	1	Conflicts with FUM, SF and $ Getting business to really understand the required program / resources required to be implemented Simplification of disclosures	2, 5, 5
	2	Conflict between clients interests and those of the adviser	1, 3
	3	How much to charge clients for advice? Is leveraging off previous work okay when deciding charges?	4, 4, 3

	4	Disclosure – ownership, products, fees and charges and the impact on the ability to service clients	1, 1, 1, 2, 3, 4
	5	Remuneration – enticements through soft dollar; clients lack of awareness/understanding; commission versus fee	2, 4
	6	Conflict of interest eg: product – ownership of dealer groups by larger organisations/ fund manager	1, 1, 1, 1, 1, 1
	7	non-cash remuneration (gift from clients)	
	8	Dealer group remuneration – conflicts of interest	4
	9	Product restrictions fees versus commissions	1, 3, 3, 3
	10	Dealing with clients expectations of Returns versus Risk in asset allocations	2, 4
	11	paying ↑ Commissions products versus paying ↓ commission products	2, 4
	12	Fees commissions or both	2, 2, 2, 3, 5
	13	Objectivity APL (and conflicts of interest)	2, 3
	14	Conflict of interests: only recommending linked fund managers products, products from APL	3, 3
Compliance		None	
Professionalism	1	Advice is driven by quota not quality	3, 3, 3, 3, 3, 5
	2	Switching	2, 2, 2, 2, 2, 2
	3	To always act in best interest of client	1, 1, 1, 1, 1, 1, 1, 1, 1, 2, 5
Fairness	1	Fees/ charges/ trail commissions, impact on profitability and ongoing servicing of clients	2, 5, 5
	2	Poor disclosure of commissions. Taking advantage of clients low understanding of fee structure	3, 3, 3,
	3	Churning / twisting, switching	1, 1, 1, 3
	4	The way fees are disclosed	
	5	Life insurance inside or outside Super and the upfront commissions	
	6	Level of fees (ongoing service) i.e. different clients paying different fees, (for the same services), priority etc.	1, 4, 4

	7	Time critical misuse for adviser convenience (licensee defines "time critical" for their convenience)	4, 4, 4
	8	Limiting advice unfairly to advice more suitable to advisers interests rather than clients	1, 1, 2, 2, 2, 5
	9	Overcharging for service provided (especially ongoing review fees)	2, 2, 3
Other	1	Volume of attention given to volume or incentive payments	2, 2
	2	Business sustainability in the medium to long term	1, 1, 3
Diligence	1	Restrictions on product offering via Approved Product Lists	1, 2, 3, 5
	2	Research and ratings	1, 3, 5, 6
	3	Changing asset allocation based on client requirements when it is in conflict with risk rating (addressing gap analysis)	2, 2, 2, 3, 4
	4	To be unbiased	2, 2, 3, 4, 4, 4, 5
	5	Conflict/ pressure of time – the need to produce income for themselves (and licensee). Conflict the desire to provide appropriate advice and appropriate researches presents ad strategy. Pressure / conflict of the Licensees Approved Product List and possible quotas	1, 1, 1, 1, 1, 1, 1, 3, 3, 3, 5
Confidentiality		None	

18 Table 4: Collation of participants' responses to Question 2 against the nine ethical principle categories and ranking			
Ethical Principle	**No.**	**Comment**	**Ranking**
Integrity	1	Risk management versus planners. Behaviour in complaint handling	1, 2, 2, 4
	2	Definition of significant breach – conflict between compliance staff and Company Directors/ Licensee responsible managers	1
	3	Issues facing Compliance Manager – recording identified issues versus the work required to address them	5
	4	Independence of function i.e. completely detached from any product advice influence	1, 1, 3, 3, 3, 3
	5	Issues facing Compliance Manager – cancelling authorisation of high risk adviser who brings a lot of revenue to the business	2, 5
	6	Issue facing Compliance Manager – link between distribution of related product and maintaining the Licensee's compliance	4
	7	Business needs versus compliance responsibility. Increasing demand for profitability across corporate environments, i.e. head office overseas – do they understand Australia's complex compliance framework?	1, 1, 1, 2, 2, 2, 5
	8	Allowing the compliance manager to provide an independent opinion without pressure from senior management on appropriateness of products	1, 4
	9	Conflict between employer and employee for the role in enforcing rules and profit	3
	10	Competing with other business goals of: restricted products; soft $; platforms	2, 3, 4
Competence	1	Disciplining advisers when their performance is inadequate from a compliance perspective i.e. not being pressured into taking a soft approach by management for advisers who are non-compliant	1, 1, 1, 1, 1, 1, 1, 2
	2	Manage "competence" i.e. advisers work within skill/ product range ethically	2, 2, 2, 2, 2
Objectivity	1	Sales distribution versus compliance. Different rules depending on how much funds an adviser has under management – conflict	1, 2
	2	The drive for sales overrides the interests of clients (i.e. inappropriate advice)	1, 1
	3	PI Insurance terms versus Limited Risk in advice. Erring on the side of caution to limit claims	3, 4

	4	The compliance makes the rules and then checks their own implementation. Compliance should be independent – to some extent (i.e. accountants and auditors)	4
Compliance	1	Business versus. Budgets, best practice	3, 4, 5, 7
	2	Preparation of effective and compliant disclosure documents (SOA, FSG, PDS)	2, 2, 3
	3	Being pressured into changing business rules to suit advisers and Licensee's performance objectives	1, 1, 2, 2, 4
	4	Keeping abreast of the new and updated Rules and Regulations	3
	5	Lack of time / resources to review compliance process – continuous improvement. "Just do what we've always done"	2, 3, 3, 4
	6	Lack of sincere support from management for compliance and risk issues	1, 1, 1, 1, 1, 1, 2
	7	Ever expanding legislative frame work	
	8	Compliance is still thought of as predominantly audit and reviews rather than being proactive and having the clout to be able to do the function as intended	2, 3, 4, 4, 5
	9	Compliance Manager – possible pressure from management favouring large producer/ earner for the licensee	1, 2, 3, 5
Professionalism	1	Compliance manager – Check processes that are based on samples and samples are not sufficient to provide true result	2, 3, 4, 5
	2	Damage to profession by Westpoint, etc, leading to increased expectations of Compliance Managers and due diligence	1, 1, 1, 1, 1, 1
	3	Elevate priority of resourcing for compliance monitoring	3, 3, 4, 5
	4	Knowledge, training and skilling of Compliance Managers	
	5	Harmonious relationship with Licensee and common goal or objective	1, 2
	6	Lack of continuous training / PD undertaken by advisors	2, 3, 3, 3, 4
Fairness	1	Distribution owned businesses and the approved product list use	5
	2	Provision of impartial advice in an environment where there is clear incentive for planners to switch/	1, 1, 1, 1, 1, 1,

		transfer investments / super	2, 3, 3
	3	Avoiding internal conflict eg. Sales versus Compliance	2, 2, 2, 3
	4	Conflict of interests facing dealership and planners and development of appropriate compliance program	2, 3, 3, 4
	5	Dilemma of how ‘Reasonable Basis’ is interpreted by some	2, 4, 4
Other		None	
Diligence	1	Encourage dialogue – reporting of breaches (etc)	2, 3, 4
	2	Issues for compliance manager. Time pressure – to be able to cover all recognised compliance matters	3, 3, 4, 4, 5, 5
	3	Lack of diligence in following procedures by advisers	1, 1, 1, 2, 2, 3
	4	Sacking of compliance department/ teams for commercial reasons. 6-12 months no internal compliance, then rebuild. Should need to report to ASIC	1, 1, 1, 2
Confidentiality		None	

FOOTNOTES*

Number of Post-it Notes received for each category in Q1 and then Q2.

Category	Question 1	Question 2
Integrity	7	10
Competence	3	2
Objectivity	14	4
Compliance	0	9
Professionalism	3	6
Fairness	9	5
Other	2	0
Diligence	5	4
Confidentiality	0	0
TOTAL	**43**	**40**

Number of Ethical Principles used to categorise ethical issues of participants: 9

* Integrity, competence, objectivity, compliance, professionalism, fairness, diligence, confidentiality, other

How many rankings given (overall) in each category by focus group participants

Category	Rankings per category		
	Q1	**Q2**	**Total**
Integrity	39	28	67
Competence	20	13	33
Objectivity	40	7	47
Compliance	0	33	33
Professionalism	23	21	44
Fairness	25	21	46
Other	5	0	5
Diligence	31	19	50
Confidentiality	0	0	0
TOTAL	**183**	**142**	**325**

Number of 1, 2, 3, 4, and 5 rankings given by focus group participants for each question

Ethical Principle	Question 1							Question 2						
	1's	**2's**	**3's**	**4's**	**5's**	**6's**	**7's**	**1's**	**2's**	**3's**	**4's**	**5's**	**6's**	**7's**
Integrity	6	11	6	10	6	0	0	8	7	6	4	3	0	0
Competence	8	5	5	1	1	0	0	7	6	0	0	0	0	0
Objectivity	11	9	10	7	3	0	0	3	1	1	2	0	0	0
Compliance	0	0	0	0	0	0	0	9	8	7	5	3	0	1
Professionalism	9	7	5	0	2	0	0	7	3	6	3	2	0	0
Fairness	6	6	5	5	3	0	0	6	6	5	3	1	0	0
Other	2	2	1	0	0	0	0	0	0	0	0	0	0	0
Diligence	9	6	7	4	4	1	0	6	4	4	3	2	0	0
Confidentiality	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Numbers:	**51**	**46**	**39**	**27**	**19**	**1**	**0**	**46**	**35**	**29**	**20**	**11**	**0**	**1**

APPENDIX D.13: TABLE OF THEMES ASSOCIATED WITH FOCUS GROUP RESPONSES TO QUESTION 3

Question 3 - What are the factors you believe are influencing the ethical decision making of financial planners and compliance managers?		
Participant	**Their Response**	**Researcher's comment on theme related to response**
Participant 1	I think it's that there… its probably we have identified a lot of individual factors about ethical issues…but there are some over arching ones and the first part is it doesn't matter whether you are in a small practice, medium or a large size practice, most of us have some stake in the business somewhere along the line, and so you've got that business versus absolute compliance dilemma.	The primary theme emerging from this response relates to "Business Imperatives" – no 6. A secondary theme relates to the conflict involved in the tradeoff between compliance objectives and business sustainability – no.4.
Participant 2	Following on from the previous discussion I think that there are 2 major aspects that influence ethics being management and the support that they give to compliance and good ethics in the business. Secondly the environment in which the business operates, which is principally in my view the expectations of clients to be treated fairly, and also the laws in which we operate in Australia.	The primary theme emerging from this response relates to "Business Imperatives" – no.6. A secondary theme relates to client interests – no.3.
Participant 3	I think what drives the industry is what profits them the most, what the greatest profit margin as opposed to what the greatest priority or needs are for the clients, and that's where the conflict lies.	The primary theme emerging from this response relates to "Business Imperatives" – no.6. A secondary theme relates to conflict of interests – no.4.
Participant 4	One observation I would like to make is that there seems to be a growing emphasis on process, and that doesn't necessarily mean that the ethical side of things is followed as long as the process is followed.	The primary theme emerging from this response relates to "Risk management tradeoffs" – no.10.
Participant 5	I feel as though the pressure to make a sale as against the ethics, quite often over rules a decision.	The primary theme emerging from this response relates to "Business Imperatives" – no.6. A secondary theme relates to conflict of interests – no.4.

Participant 6	Yes I agree I think that the question of management's responsibility is most relevant particularly in the establishment of sales targets, and particularly when they're based on volume of rewards and other remuneration arrangements. I think that is one of the major influences as far as an overall ethical culture within the business.	The primary theme emerging from this response relates to "Business Imperatives" – no.6. A secondary theme relates to conflict of interests – no.4 and remuneration structures – no.7.
Participant 7	Following on from what was just said earlier about the process. I think it's actually a very good point because in the drive to make businesses more efficient there has been a lot attempts made to stream line the process, make it 'monkey see, monkey do', all the way through compliance and that can tend to impact on the ability of compliance officers to really get to know the businesses and make sure that the advisors are behaving in the utmost best practice rather than just business practice.	The primary theme emerging from this response relates to "Risk Management tradeoffs" – no.10. A secondary theme relates to "Business Imperatives"– no.6.
Participant 8	One of the difficulties we have to labour under is that a lot of publicity is given in a certain quarter to advisors who have done the wrong thing. Its gets a lot of publicity and that creates pressure and expectations in the minds of clients who, I don't know whether you strike it or whether the advisors strike it, but there must be some impact on clients who get a bit suspicious shall we say… who say we don't want to deal with an advisor. And I think that creates a bit of a problem in trying to implicate the "right attitude" in the minds of the advisors.	The primary theme emerging from this response relates to "Stakeholder perceptions" – no.13. A secondary theme relates to client interests – no.3.
Participant 9	I think one of the problems, the ethical problem, is that there is actually no definition of ethics… it's a subjective decision. One person's ethical decision is another person's commercial decision, and unfortunately a whole lot of different factors affect how people make an ethical decision and if they don't agree with me they're wrong.	The primary theme emerging from this response relates to "Subjective nature of ethical decision making" – no.14
Participant 10	I would just like to make a comment about the overwhelming conflict of interest I think has a huge impact across our industry. Fees, charges, disclosure, ownership both of practices and dealer groups and product. Also, I think there is a wide range of interpretation, of what is and isn't allowable under various legislation. I think a more cohesive industry focus would certainly assist that. Although, when you've got parties coming from different focuses, from your very commercial versus your very ethical, it can be very difficult to get a consensus in that.	The primary theme emerging from this response relates to "conflict of interests" – no.4. A secondary theme relates to "remuneration structures"– no.7 and "links to distribution networks" – no.2.

Participant 11	I think a major factor is insufficient resources that could influence ethical decision making. A Compliance Manager or a Financial Planner may take some short cuts in their process just because of a lack of resources.	The primary theme emerging from this response relates to "Business Imperatives" – no.6. A secondary theme relates to conflict of interests – no.4
Participant 12	I think one of the dilemmas or one of the factors is that a role as a Compliance Manager,… you are really the moral conscience of the organisation and that sometimes doesn't relay on easily when you are dealing with people that are very sales driven. That's one issue, I guess the other thing is getting the respect in terms of when you do bring something to the table, that it is a value add thing and that it's not perceived as a restriction on doing business.	The primary theme emerging from this response relates to "Business Imperatives" – no.6 and management values and objectives. A secondary theme relates to conflict of interests – no.4 and internal stakeholder perceptions of the value of compliance – no. 13.
Participant 13	I just wanted to add that there are two issues. One is self preservation and the one second is business sustainability. There was a comment before about the changing factors, and I think that's getting bigger and bigger in our industry where smaller to medium sized licensees face far greater financial burdens than they ever have in the past so therefore there is a need to change and to make change.	The primary theme emerging from this response relates to "Business Imperatives" – no.6. A secondary theme relates to conflict of interests – no.4.
Participant 14	One of the main issues that I see, and I think that it's been mentioned, is the link between advice channels and distribution channels, and the influence that has on compliance.	The primary theme emerging from this response relates to "Links to distribution networks" – no.2. A secondary theme may relate to conflict of interests – no.4
Participant 15	I think I have previously talked about the value and it's very easy to see value being placed on income coming in through the door, but it's very difficult to place a value on ethics. I think that a business that does place a high value on ethics and honesty and good advice will in the long term get value for that ethics, but in the short term that may not be the case. And so that is where it's difficult to place a value on ethics.	The primary theme emerging from this response relates to "Business Imperatives" – no.6. A secondary theme relates to "stakeholder perceptions– no.13
Participant 16	I am a Responsible Officer, Financial Planner and Compliance Manager for my own business. So my business is my life and in that sense it's really about not	The primary theme emerging from this response relates to "Business Imperatives" –

	just ethics but doing the right thing by your client. And you realise that with the Centro's and Westpoint's you can have all the best researchers in the world, and do the most credible due diligence, but there is always that risk out there. That one day a finger can get pointed and that it's just a question of going out there and doing the best thing by your client and crossing your fingers.	no.6. A secondary theme relates to client interests – no.3
Participant 17	I just add one final comment and that relates to - are we really on the right track in respect to when we talk about conflicts of interest and some of these other related issues, because we are talking about product. And if you were to compare this industry with some of the other industries, one product from another product, and ….are they really doing the right or the wrong thing? It becomes, …. it's the perception of the other person who is actually acquiring it. Like, whether you want to buy a Toyota or a Mitsubishi which is going out of production. And I guess some of these issues really ought to be taken into consideration because who can say whether one product is better than another product. If we look at it, of about the 3,000-5,000 products that are available, of those, there's a good 200-300 which are almost incomparable, that are all about the same standard. So what is wrong with one as against the other? That's a dilemma that we all face?	The primary theme emerging from this response relates to conflict of interests – no.4. A secondary theme may be "Links to distribution networks – no.2

APPENDIX D.14: RESPONSE RATES TO THE DEMOGRAPHIC SURVEY - SECTION 1 OF QUESTIONNAIRE

Demographic Survey Question	**Response Rates**	
Question No	**Valid**	**Missing**
1. Do you represent an Australian Financial Services Licensee in the provision of financial advice under the Corporations Act (2001)?	165	0
2. Do you hold the following role or roles within your Licensee?	161(without hc)	1
3. Which type of Licensee do you work for or represent?	161	4
4. Please state the highest education level that you have attained?	157	8
5. Do you hold a Professional Designation?	109	56
6. Are you a member of the following Professional Associations	149(without hc)	13
7. How are you primarily remunerated?	160	5
8. Number of years experience as a financial adviser or compliance officer	160	5
9. Please state your gender	161	4
10. Your Age	161	4
11. In which State do you reside?	161	4

APPENDIX D.15: FREQUENCY TABLES FOR THE DEMOGRAPHIC SURVEY

Statistics

		Do you hold the following role or roles within your Licensee? (Financial Adviser)	Do you hold the following role or roles within your Licensee? (Consultant)	Do you hold the following role or roles within your Licensee? (Responsible Officer)
N	Valid	132	37	21
	Missing	33	128	144

Do you hold the following role or roles within your Licensee? (Financial Adviser)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Financial Adviser	132	80.0	100.0	100.0
Missing	System	33	20.0		
Total		165	100.0		

Do you hold the following role or roles within your Licensee? (Consultant)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Consultant	37	22.4	100.0	100.0
Missing	System	128	77.6		
Total		165	100.0		

Do you hold the following role or roles within your Licensee? (Responsible Officer)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Responsible Officer	21	12.7	100.0	100.0
Missing	System	144	87.3		
Total		165	100.0		

Statistics

		Are you a member of any of the following Professional Associations? (CPA Australia)	Are you a member of any of the following Professional Associations? (ICAA)	Are you a member of any of the following Professional Associations? (FPA)	Are you a member of any of the following Professional Associations? (NIBA)	Are you a member of any of the following Professional Associations? (SDIA)	Are you a member of any of the following Professional Associations? (ACI)	Are you a member of any of the following Professional Associations? (None of Above)
N	Valid	24	26	79	0	0	6	43
	Missing	141	139	86	165	165	159	122

\re you a member of any of the following Professional Associations? (None of Above)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	None of the above	43	26.1	100.0	100.0
Missing	System	122	73.9		
Total		165	100.0		

Are you a member of any of the following Professional Associations? (CP/ Australia)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	CPA Australia	24	14.5	100.0	100.0
Missing	System	141	85.5		
Total		165	100.0		

Are you a member of any of the following Professional Associations? (ICAA)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	ICAA	26	15.8	100.0	100.0
Missing	System	139	84.2		
Total		165	100.0		

Are you a member of any of the following Professional Associations? (FPA)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	FPA	79	47.9	100.0	100.0
Missing	System	86	52.1		
Total		165	100.0		

Are you a member of any of the following Professional Associations? (SDIA)

		Frequency	Percent
Missing	System	165	100.0

Are you a member of any of the following Professional Associations? (ACI)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Australian Compliance Institute	6	3.6	100.0	100.0
Missing	System	159	96.4		
Total		165	100.0		

APPENDIX D.16: FREQUENCY TABLES FOR SECTION 2 OF THE MAIN RESEARCH INSTRUMENT ON SYSTEMS AND PROCEDURES WITHIN THE AFS LICENSEE

Section 2 – Response Rates

Statistics

		Does your Licensee have a published set of organisational values?	Does your Licensee have an internal Code of Ethics/ Conduct?	Does the Licensee provide training for advisers in ethics and ethical decision making?	Is there regular organisational reporting on ethical matters?	Are matters related to ethical standards regularly communicated to you?	Does the Licensee have a whistle blowing policy?	Does the Licensee have enforcement mechanisms such as a staff/adviser disciplinary policy?	Does the Licensee's performance management system include reference to its ethical standards?	Does the Licensee have a formal system for rewarding people who achieve high levels of ethical conduct?
N	Valid	154	154	153	151	147	148	150	148	153
	Missing	11	11	12	14	18	17	15	17	12

Individual Frequency Tables for Section 2 questions 1 to 9

Does your Licensee have a published set of organisational values?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	129	78.2	83.8	83.8
	No	11	6.7	7.1	90.9
	Don't Know	14	8.5	9.1	100.0
	Total	154	93.3	100.0	
Missing	System	11	6.7		
Total		165	100.0		

Does your Licensee have an internal Code of Ethics/Conduct?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	135	81.8	87.7	87.7
	No	12	7.3	7.8	95.5
	Don't Know	7	4.2	4.5	100.0
	Total	154	93.3	100.0	
Missing	System	11	6.7		
Total		165	100.0		

Does the Licensee provide training for advisers in ethics and ethical decis making?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	122	73.9	79.7	79.7
	No	23	13.9	15.0	94.8
	Don't Know	8	4.8	5.2	100.0
	Total	153	92.7	100.0	
Missing	System	12	7.3		
Total		165	100.0		

Is there regular organisational reporting on ethical matters?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	77	46.7	51.0	51.0
	No	47	28.5	31.1	82.1
	Don't Know	27	16.4	17.9	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

Are matters related to ethical standards regularly communicated to you?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	102	61.8	69.4	69.4
	No	42	25.5	28.6	98.0
	Don't Know	3	1.8	2.0	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

Does the Licensee have a whistle blowing policy?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	127	77.0	85.8	85.8
	No	8	4.8	5.4	91.2
	Don't Know	13	7.9	8.8	100.0
	Total	148	89.7	100.0	
Missing	System	17	10.3		
Total		165	100.0		

Does the Licensee have enforcement mechanisms such as a staff/advise disciplinary policy?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	85	51.5	56.7	56.7
	No	21	12.7	14.0	70.7
	Don't Know	44	26.7	29.3	100.0
	Total	150	90.9	100.0	
Missing	System	15	9.1		
Total		165	100.0		

Does the Licensee's performance management system include reference t ethical standards?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	79	47.9	53.4	53.4
	No	29	17.6	19.6	73.0
	Don't Know	40	24.2	27.0	100.0
	Total	148	89.7	100.0	
Missing	System	17	10.3		
Total		165	100.0		

Does the Licensee have a formal system for rewarding people who achi(high levels of ethical conduct?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	35	21.2	22.9	22.9
	No	68	41.2	44.4	67.3
	Don't Know	50	30.3	32.7	100.0
	Total	153	92.7	100.0	
Missing	System	12	7.3		
Total		165	100.0		

APPENDIX D.17. FREQUENCY TABLES FOR THE ETHICAL CLIMATE AND CULTURE SURVEY IN SECTION 3 OF THE MAIN RESEARCH INSTRUMENT

Section 3A: Environment Analysis Frequencies

Statistics

		The Management of this Licensee disciplines unethical behaviour when it occurs.	The senior managers of this Licensee guide decision making in an ethical environment.	Ethical behaviour is rewarded by this Licensee.	Unethical behaviour is punished at this Licensee	People of integrity are rewarded at this Licensee	Senior managers in this organisation regularly show that they care about ethics	Our Ethics Code requirements are consistent with informal organisational norms	S3.AQ2R	S3AQ4R	S3AQ9R
N	Valid	151	151	151	151	149	151	147	148	151	147
	Missing	14	14	14	14	16	14	18	17	14	18
Mean		5.8013	5.6358	4.5762	5.0066	5.0201	5.4172	4.7959	5.5135	5.2517	5.9932
Median		6.0000	6.0000	4.0000	6.0000	5.0000	6.0000	5.0000	6.0000	6.0000	7.0000
Std. Deviation		1.30650	1.34899	1.50748	1.91310	1.35801	1.39216	1.46624	1.59287	1.56724	1.56807

Section 3A Environment Scale: Individual Frequency Tables for Items 1 to 10

The Management of this Licensee disciplines unethical behaviour when it occu

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	2	1.2	1.3	1.3
	2.00	1	.6	.7	2.0
	3.00	6	3.6	4.0	6.0
	Neither Agree nor Disagree	17	10.3	11.3	17.2
	5.00	19	11.5	12.6	29.8
	6.00	51	30.9	33.8	63.6
	Strongly Agree	55	33.3	36.4	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

The senior managers of this Licensee guide decision making in an ethical environment.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	.6	.7	.7
	2.00	6	3.6	4.0	4.6
	3.00	4	2.4	2.6	7.3
	Neither Agree nor Disagree	17	10.3	11.3	18.5
	5.00	24	14.5	15.9	34.4
	6.00	55	33.3	36.4	70.9
	Strongly Agree	44	26.7	29.1	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

Ethical behaviour is rewarded by this Licensee.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	7	4.2	4.6	4.6
	2.00	7	4.2	4.6	9.3
	3.00	11	6.7	7.3	16.6
	Neither Agree nor Disagree	53	32.1	35.1	51.7
	5.00	31	18.8	20.5	72.2
	6.00	24	14.5	15.9	88.1
	Strongly Agree	18	10.9	11.9	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

Unethical behaviour is punished at this Licensee

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	9	5.5	6.0	6.0
	2.00	16	9.7	10.6	16.6
	3.00	9	5.5	6.0	22.5
	Neither Agree nor Disagree	18	10.9	11.9	34.4
	5.00	21	12.7	13.9	48.3
	6.00	35	21.2	23.2	71.5
	Strongly Agree	43	26.1	28.5	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

People of integrity are rewarded at this Licensee

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2.00	9	5.5	6.0	6.0
	3.00	3	1.8	2.0	8.1
	Neither Agree nor Disagree	47	28.5	31.5	39.6
	5.00	32	19.4	21.5	61.1
	6.00	33	20.0	22.1	83.2
	Strongly Agree	25	15.2	16.8	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

Senior managers in this organisation regularly show that they care about ethics

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	3	1.8	2.0	2.0
	2.00	4	2.4	2.6	4.6
	3.00	3	1.8	2.0	6.6
	Neither Agree nor Disagree	28	17.0	18.5	25.2
	5.00	28	17.0	18.5	43.7
	6.00	49	29.7	32.5	76.2
	Strongly Agree	36	21.8	23.8	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

Our Ethics Code requirements are consistent with informal organisational norms

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	5	3.0	3.4	3.4
	2.00	8	4.8	5.4	8.8
	3.00	4	2.4	2.7	11.6
	Neither Agree nor Disagree	49	29.7	33.3	44.9
	5.00	26	15.8	17.7	62.6
	6.00	39	23.6	26.5	89.1
	Strongly Agree	16	9.7	10.9	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

S3.A.Q2R

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	3	1.8	2.0	2.0
	2.00	8	4.8	5.4	7.4
	3.00	4	2.4	2.7	10.1
	4.00	25	15.2	16.9	27.0
	5.00	16	9.7	10.8	37.8
	6.00	39	23.6	26.4	64.2
	7.00	53	32.1	35.8	100.0
	Total	148	89.7	100.0	
Missing	System	17	10.3		
Total		165	100.0		

S3A.Q4R

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	6	3.6	4.0	4.0
	2.00	5	3.0	3.3	7.3
	3.00	5	3.0	3.3	10.6
	4.00	30	18.2	19.9	30.5
	5.00	23	13.9	15.2	45.7
	6.00	47	28.5	31.1	76.8
	7.00	35	21.2	23.2	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

S3A.Q9R

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	3	1.8	2.0	2.0
	2.00	8	4.8	5.4	7.5
	3.00	3	1.8	2.0	9.5
	4.00	10	6.1	6.8	16.3
	5.00	7	4.2	4.8	21.1
	6.00	34	20.6	23.1	44.2
	7.00	82	49.7	55.8	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

Section 3B Employee Focus Scale: Frequencies

Statistics

		I talk enthusiastically to my friends about the Licensee as it is a great organisation to belong to.	People are very concerned about what is generally best for this Licensee's employees.	Our major consideration is what is best for everyone at this Licensee.	I feel very loyal to this organisation.	At this Licensee, people look out for each other's welfare.	My values and the Licensee's organisational values are very similar.
N	Valid	151	146	147	149	151	151
	Missing	14	19	18	16	14	14
Mean		5.4503	4.4452	5.0272	5.3960	5.1987	5.3377
Median		6.0000	4.0000	5.0000	5.0000	5.0000	6.0000
Std. Deviation		1.25267	1.44809	1.18752	1.31939	1.29625	1.46464

Section 3B Employee Focus Scale: Frequency Tables for Individual Items 11 to 16

talk enthusiastically to my friends about the Licensee as it is a great organis to belong to.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2.00	5	3.0	3.3	3.3
	3.00	5	3.0	3.3	6.6
	Neither Agree nor Disagree	22	13.3	14.6	21.2
	5.00	36	21.8	23.8	45.0
	6.00	51	30.9	33.8	78.8
	Strongly Agree	32	19.4	21.2	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

People are very concerned about what is generally best for this Licensee's employees.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	6	3.6	4.1	4.1
	2.00	9	5.5	6.2	10.3
	3.00	16	9.7	11.0	21.2
	Neither Agree nor Disagree	43	26.1	29.5	50.7
	5.00	37	22.4	25.3	76.0
	6.00	25	15.2	17.1	93.2
	Strongly Agree	10	6.1	6.8	100.0
	Total	146	88.5	100.0	
Missing	System	19	11.5		
Total		165	100.0		

Our major consideration is what is best for everyone at this Licensee.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2.00	3	1.8	2.0	2.0
	3.00	8	4.8	5.4	7.5
	Neither Agree nor Disagree	40	24.2	27.2	34.7
	5.00	46	27.9	31.3	66.0
	6.00	31	18.8	21.1	87.1
	Strongly Agree	19	11.5	12.9	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

I feel very loyal to this organisation.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	.6	.7	.7
	2.00	5	3.0	3.4	4.0
	3.00	5	3.0	3.4	7.4
	Neither Agree nor Disagree	21	12.7	14.1	21.5
	5.00	43	26.1	28.9	50.3
	6.00	39	23.6	26.2	76.5
	Strongly Agree	35	21.2	23.5	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

At this Licensee, people look out for each other's welfare.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	2	1.2	1.3	1.3
	2.00	5	3.0	3.3	4.6
	3.00	5	3.0	3.3	7.9
	Neither Agree nor Disagree	25	15.2	16.6	24.5
	5.00	50	30.3	33.1	57.6
	6.00	40	24.2	26.5	84.1
	Strongly Agree	24	14.5	15.9	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

My values and the Licensee's organisational values are very similar.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	3	1.8	2.0	2.0
	2.00	5	3.0	3.3	5.3
	3.00	11	6.7	7.3	12.6
	Neither Agree nor Disagree	17	10.3	11.3	23.8
	5.00	32	19.4	21.2	45.0
	6.00	49	29.7	32.5	77.5
	Strongly Agree	34	20.6	22.5	100.0
	Total	151	91.5	100.0	
Missing	System	14	8.5		
Total		165	100.0		

Section 3C Community Scale: Frequencies

Statistics

		The effect of decisions on the client is of primary concern at this Licensee.	It is expected at this Licensee that you will always do what is right for the client and the public.	People at this Licensee have a strong sense of responsibility to the outside community.
N	Valid	149	149	149
	Missing	16	16	16
Mean		5.8389	5.8255	6.1208
Median		6.0000	6.0000	6.0000
Std. Deviation		1.21959	1.11943	1.07749

Section 3C Community Scale: Individual Frequency Tables for Items 17 to 19

The effect of decisions on the client is of primary concern at this Licensee.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	.6	.7	.7
	2.00	2	1.2	1.3	2.0
	3.00	5	3.0	3.4	5.4
	Neither Agree nor Disagree	12	7.3	8.1	13.4
	5.00	23	13.9	15.4	28.9
	6.00	55	33.3	36.9	65.8
	Strongly Agree	51	30.9	34.2	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

It is expected at this Licensee that you will always do what is right for the client and the public.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	.6	.7	.7
	2.00	1	.6	.7	1.3
	3.00	1	.6	.7	2.0
	Neither Agree nor Disagree	16	9.7	10.7	12.8
	5.00	29	17.6	19.5	32.2
	6.00	54	32.7	36.2	68.5
	Strongly Agree	47	28.5	31.5	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

People at this Licensee have a strong sense of responsibility to the outside community.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	.6	.7	.7
	2.00	2	1.2	1.3	2.0
	3.00	2	1.2	1.3	3.4
	Neither Agree nor Disagree	3	1.8	2.0	5.4
	5.00	22	13.3	14.8	20.1
	6.00	54	32.7	36.2	56.4
	Strongly Agree	65	39.4	43.6	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

Section 3D Locus of Control: Frequencies

Statistics

		This Licensee demands obedience to authority figures, without question	People at this Licensee are expected to do as they're told.	The boss is always right at this Licensee.	I am not free to do my job in the way I see fit
N	Valid	146	146	143	146
	Missing	19	19	22	19
Mean		3.9178	4.0479	3.5105	2.7671
Median		4.0000	4.0000	4.0000	2.0000
Std. Deviation		1.69993	1.62027	1.75574	1.61049

Section 3D Locus of Control Scale: Individual Frequency Tables for Items 20 to 23.

This Licensee demands obedience to authority figures, without question

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	16	9.7	11.0	11.0
	2.00	17	10.3	11.6	22.6
	3.00	18	10.9	12.3	34.9
	Neither Agree nor Disagree	47	28.5	32.2	67.1
	5.00	19	11.5	13.0	80.1
	6.00	18	10.9	12.3	92.5
	Strongly Agree	11	6.7	7.5	100.0
	Total	146	88.5	100.0	
Missing	System	19	11.5		
Total		165	100.0		

People at this Licensee are expected to do as they're told.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	15	9.1	10.3	10.3
	2.00	14	8.5	9.6	19.9
	3.00	13	7.9	8.9	28.8
	Neither Agree nor Disagree	45	27.3	30.8	59.6
	5.00	33	20.0	22.6	82.2
	6.00	18	10.9	12.3	94.5
	Strongly Agree	8	4.8	5.5	100.0
	Total	146	88.5	100.0	
Missing	System	19	11.5		
Total		165	100.0		

The boss is always right at this Licensee.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	27	16.4	18.9	18.9
	2.00	20	12.1	14.0	32.9
	3.00	16	9.7	11.2	44.1
	Neither Agree nor Disagree	41	24.8	28.7	72.7
	5.00	16	9.7	11.2	83.9
	6.00	18	10.9	12.6	96.5
	Strongly Agree	5	3.0	3.5	100.0
	Total	143	86.7	100.0	
Missing	System	22	13.3		
Total		165	100.0		

I am not free to do my job in the way I see fit

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	39	23.6	26.7	26.7
	2.00	39	23.6	26.7	53.4
	3.00	21	12.7	14.4	67.8
	Neither Agree nor Disagree	25	15.2	17.1	84.9
	5.00	11	6.7	7.5	92.5
	6.00	8	4.8	5.5	97.9
	Strongly Agree	3	1.8	2.1	100.0
	Total	146	88.5	100.0	
Missing	System	19	11.5		
Total		165	100.0		

Section 3E Code Implementation Scale: Frequencies

Statistics

		The Licensee has established procedures for advisers to ask questions about its ethics requirements	The Licensee relies on Codes of Ethics from professional associations, rather than having its own Code.	The internal Code of Ethics is widely distributed by the Licensee.	Advisers are regularly required to assert that their actions are in compliance with the Licensee's Code of Ethics
N	Valid	149	145	148	149
	Missing	16	20	17	16
Mean		5.0134	4.0414	4.6622	4.7718
Median		5.0000	4.0000	5.0000	5.0000
Std. Deviation		1.37047	1.62821	1.47336	1.54710

Section 3E Code Implementation Scale: Individual Frequency Tables for Items 24 to 27

The Licensee has established procedures for advisers to ask questions about i ethics requirements

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	3	1.8	2.0	2.0
	2.00	2	1.2	1.3	3.4
	3.00	7	4.2	4.7	8.1
	Neither Agree nor Disagree	50	30.3	33.6	41.6
	5.00	28	17.0	18.8	60.4
	6.00	34	20.6	22.8	83.2
	Strongly Agree	25	15.2	16.8	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

The Licensee relies on Codes of Ethics from professional associations, rather th having its own Code.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	8	4.8	5.5	5.5
	2.00	23	13.9	15.9	21.4
	3.00	18	10.9	12.4	33.8
	Neither Agree nor Disagree	43	26.1	29.7	63.4
	5.00	24	14.5	16.6	80.0
	6.00	17	10.3	11.7	91.7
	Strongly Agree	12	7.3	8.3	100.0
	Total	145	87.9	100.0	
Missing	System	20	12.1		
Total		165	100.0		

The internal Code of Ethics is widely distributed by the Licensee.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	5	3.0	3.4	3.4
	2.00	8	4.8	5.4	8.8
	3.00	11	6.7	7.4	16.2
	Neither Agree nor Disagree	46	27.9	31.1	47.3
	5.00	32	19.4	21.6	68.9
	6.00	30	18.2	20.3	89.2
	Strongly Agree	16	9.7	10.8	100.0
	Total	148	89.7	100.0	
Missing	System	17	10.3		
Total		165	100.0		

Advisers are regularly required to assert that their actions are in compliance wit Licensee's Code of Ethics

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	3	1.8	2.0	2.0
	2.00	12	7.3	8.1	10.1
	3.00	9	5.5	6.0	16.1
	Neither Agree nor Disagree	44	26.7	29.5	45.6
	5.00	30	18.2	20.1	65.8
	6.00	26	15.8	17.4	83.2
	Strongly Agree	25	15.2	16.8	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

Section 3F Situational Context Scale: Frequencies

Statistics

		At this Licensee, people protect their own interests above other considerations.	People are expected to do anything to further the Licensee's interests.	People in this organisation are very concerned about what is best for themselves
N	Valid	149	149	148
	Missing	16	16	17
Mean		2.6980	2.3691	2.6959
Median		2.0000	2.0000	3.0000
Std. Deviation		1.43652	1.35242	1.40775

Section 3F Situational Context Scale: Individual Frequency Tables for Items 28 to 30

At this Licensee, people protect their own interests above other considerations.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	37	22.4	24.8	24.8
	2.00	39	23.6	26.2	51.0
	3.00	28	17.0	18.8	69.8
	Neither Agree nor Disagree	29	17.6	19.5	89.3
	5.00	11	6.7	7.4	96.6
	6.00	3	1.8	2.0	98.7
	Strongly Agree	2	1.2	1.3	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

People are expected to do anything to further the Licensee's interests.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	53	32.1	35.6	35.6
	2.00	38	23.0	25.5	61.1
	3.00	22	13.3	14.8	75.8
	Neither Agree nor Disagree	23	13.9	15.4	91.3
	5.00	12	7.3	8.1	99.3
	6.00	1	.6	.7	100.0
	Total	149	90.3	100.0	
Missing	System	16	9.7		
Total		165	100.0		

People in this organisation are very concerned about what is best for themselves

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	38	23.0	25.7	25.7
	2.00	35	21.2	23.6	49.3
	3.00	30	18.2	20.3	69.6
	Neither Agree nor Disagree	29	17.6	19.6	89.2
	5.00	11	6.7	7.4	96.6
	6.00	5	3.0	3.4	100.0
	Total	148	89.7	100.0	
Missing	System	17	10.3		
Total		165	100.0		

Section 3G Efficiency Scale: Frequencies

Statistics

		At this Licensee, each person is expected above all to work efficiently.	The major responsibility of people at this Licensee is to consider efficiency first	Efficient solutions to problems are always sought here	The most efficient way is always the right way at this Licensee.
N	Valid	147	144	147	143
	Missing	18	21	18	22
Mean		4.5918	3.5833	4.6939	3.3007
Median		5.0000	4.0000	5.0000	3.0000
Std. Deviation		1.37370	1.28193	1.26930	1.32705

Section 3G Efficiency Scale: Individual Frequency Tables for Items 31 to 34

At this Licensee, each person is expected above all to work efficiently.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	4	2.4	2.7	2.7
	2.00	8	4.8	5.4	8.2
	3.00	11	6.7	7.5	15.6
	Neither Agree nor Disagree	48	29.1	32.7	48.3
	5.00	37	22.4	25.2	73.5
	6.00	28	17.0	19.0	92.5
	Strongly Agree	11	6.7	7.5	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

The major responsibility of people at this Licensee is to consider efficiency first

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	12	7.3	8.3	8.3
	2.00	16	9.7	11.1	19.4
	3.00	29	17.6	20.1	39.6
	Neither Agree nor Disagree	59	35.8	41.0	80.6
	5.00	21	12.7	14.6	95.1
	6.00	5	3.0	3.5	98.6
	Strongly Agree	2	1.2	1.4	100.0
	Total	144	87.3	100.0	
Missing	System	21	12.7		
Total		165	100.0		

Efficient solutions to problems are always sought here

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	.6	.7	.7
	2.00	11	6.7	7.5	8.2
	3.00	8	4.8	5.4	13.6
	Neither Agree nor Disagree	40	24.2	27.2	40.8
	5.00	46	27.9	31.3	72.1
	6.00	34	20.6	23.1	95.2
	Strongly Agree	7	4.2	4.8	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

The most efficient way is always the right way at this Licensee.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	13	7.9	9.1	9.1
	2.00	29	17.6	20.3	29.4
	3.00	34	20.6	23.8	53.1
	Neither Agree nor Disagree	45	27.3	31.5	84.6
	5.00	15	9.1	10.5	95.1
	6.00	5	3.0	3.5	98.6
	Strongly Agree	2	1.2	1.4	100.0
	Total	143	86.7	100.0	
Missing	System	22	13.3		
Total		165	100.0		

Section 3H Rules and Procedures Scale: Frequencies

Statistics

		It is important to strictly follow the Licensee's rules and procedures	Everyone is expected to stick by the Licensee's rules and procedures.
N	Valid	143	143
	Missing	22	22
Mean		5.8531	6.0210
Median		6.0000	6.0000
Std. Deviation		1.10031	.94548

Section 3H Rules and Procedures Scale: Individual Frequency Tables for Items 35 and 36

It is important to strictly follow the Licensee's rules and procedures

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2.00	1	.6	.7	.7
	3.00	4	2.4	2.8	3.5
	Neither Agree nor Disagree	12	7.3	8.4	11.9
	5.00	28	17.0	19.6	31.5
	6.00	51	30.9	35.7	67.1
	Strongly Agree	47	28.5	32.9	100.0
	Total	143	86.7	100.0	
Missing	System	22	13.3		
Total		165	100.0		

Everyone is expected to stick by the Licensee's rules and procedures.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2.00	1	.6	.7	.7
	Neither Agree nor Disagree	9	5.5	6.3	7.0
	5.00	25	15.2	17.5	24.5
	6.00	58	35.2	40.6	65.0
	Strongly Agree	50	30.3	35.0	100.0
	Total	143	86.7	100.0	
Missing	System	22	13.3		
Total		165	100.0		

Section 3I Personal Ethics Scale: Frequencies

Statistics

		The structure of my work environment allows me to fully express myself as a professional.	It is important to always act in an ethical manner	The structure of my work allows me to act in an ethical manner
N	Valid	147	147	144
	Missing	18	18	21
Mean		5.8299	6.7687	6.4306
Median		6.0000	7.0000	7.0000
Std. Deviation		1.22962	.62008	.87429

Section 3I Personal Ethics Scale: Individual Frequency Tables for Items 37 to 39

The structure of my work environment allows me to fully express myself as a professional.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	.6	.7	.7
	2.00	1	.6	.7	1.4
	3.00	9	5.5	6.1	7.5
	Neither Agree nor Disagree	8	4.8	5.4	12.9
	5.00	22	13.3	15.0	27.9
	6.00	57	34.5	38.8	66.7
	Strongly Agree	49	29.7	33.3	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

It is important to always act in an ethical manner

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Neither Agree nor Disagree	3	1.8	2.0	2.0
	5.00	6	3.6	4.1	6.1
	6.00	13	7.9	8.8	15.0
	Strongly Agree	125	75.8	85.0	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

The structure of my work allows me to act in an ethical manner

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2.00	1	.6	.7	.7
	3.00	1	.6	.7	1.4
	Neither Agree nor Disagree	4	2.4	2.8	4.2
	5.00	9	5.5	6.3	10.4
	6.00	43	26.1	29.9	40.3
	Strongly Agree	86	52.1	59.7	100.0
	Total	144	87.3	100.0	
Missing	System	21	12.7		
Total		165	100.0		

Section 3J Law and Professional Codes Scale: Frequencies

Statistics

		People at this Licensee are expected to comply with the law over and above other consideration s.	At this Licensee, the professional standards associated with financial planning are the major consideration.	At this Licensee, people are expected to strictly follow legal or professional standards
N	Valid	146	147	143
	Missing	19	18	22
Mean		6.3356	6.0476	6.3706
Median		7.0000	6.0000	7.0000
Std. Deviation		.82443	1.00909	.79327

Section 3J Law and Professional Codes Scale: Individual Frequency Tables for Items 40 to 42.

People at this Licensee are expected to comply with the law over and above other considerations.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Neither Agree nor Disagree	6	3.6	4.1	4.1
	5.00	15	9.1	10.3	14.4
	6.00	49	29.7	33.6	47.9
	Strongly Agree	76	46.1	52.1	100.0
	Total	146	88.5	100.0	
Missing	System	19	11.5		
Total		165	100.0		

At this Licensee, the professional standards associated with financial planning the major consideration.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	.6	.7	.7
	3.00	1	.6	.7	1.4
	Neither Agree nor Disagree	9	5.5	6.1	7.5
	5.00	23	13.9	15.6	23.1
	6.00	57	34.5	38.8	61.9
	Strongly Agree	56	33.9	38.1	100.0
	Total	147	89.1	100.0	
Missing	System	18	10.9		
Total		165	100.0		

At this Licensee, people are expected to strictly follow legal or professional standards

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Neither Agree nor Disagree	5	3.0	3.5	3.5
	5.00	13	7.9	9.1	12.6
	6.00	49	29.7	34.3	46.9
	Strongly Agree	76	46.1	53.1	100.0
	Total	143	86.7	100.0	
Missing	System	22	13.3		
Total		165	100.0		

APPENDIX D.18: FREQUENCY TABLES FOR PART A RESPONSES TO THE FAIT INSTRUMENT IN SECTION 4 OF THE MAIN RESEARCH QUESTIONNAIRE

Statistics

		What should Ros do? Do you favour the action of sending the client to the solicitor's firm?	What should Andrew do? Do you favour the action to switch the investments?	What should Jessica do? Do you favour the view that Jessica is entitled to all of the fees that will be obtained in this matter?	What should Nicholas do? Do you favour the view that Nicholas should report the matter to his Licensee?
N	Valid	141	132	128	126
	Missing	24	33	37	39

Part A Frequency Tables for Case Scenarios 1 to 4.

What should Ros do? Do you favour the action of sending the client to th solicitor's firm?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	7	4.2	5.0	5.0
	Can't decide	9	5.5	6.4	11.3
	No	125	75.8	88.7	100.0
	Total	141	85.5	100.0	
Missing	System	24	14.5		
Total		165	100.0		

What should Andrew do? Do you favour the action to switch the investments?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	2	1.2	1.5	1.5
	Can't decide	16	9.7	12.1	13.6
	No	114	69.1	86.4	100.0
	Total	132	80.0	100.0	
Missing	System	33	20.0		
Total		165	100.0		

/hat should Jessica do? Do you favour the view that Jessica is entitled to a the fees that will be obtained in this matter?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	26	15.8	20.3	20.3
	Can't decide	28	17.0	21.9	42.2
	No	74	44.8	57.8	100.0
	Total	128	77.6	100.0	
Missing	System	37	22.4		
Total		165	100.0		

/hat should Nicholas do? Do you favour the view that Nicholas should repo matter to his Licensee?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	113	68.5	89.7	89.7
	Can't decide	10	6.1	7.9	97.6
	No	3	1.8	2.4	100.0
	Total	126	76.4	100.0	
Missing	System	39	23.6		
Total		165	100.0		

APPENDIX D.19: FREQUENCY TABLES FOR PART B RATINGS RESPONSES TO CASE SCENARIO 1 OF THE FAIT INSTRUMENT

Statistics

		Whether the client can afford the solicitor's fees.	Would the referral be consistent with what Ros thinks is right?	What are the consequences for Ros if she goes against the firm's policy?	What is best for Ros' firm?	Do the firm's commercial arrangements impact on Ros' professional reputation?	Whether Ros' job may be threatened if she refuses to refer the client.	Whether someone in Ros' position should object to the firm's practice?	Whether the fiduciary duty Ros has is higher to her employer or the client?	What factors are relevant in determining Ros' professional responsibility?	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	Would the client really care about the arrangement provided she got appropriate legal advice?	What action would Ros' co-workers expect her to take?
N	Valid	140	140	141	141	141	140	141	141	134	139	141	38
	Missing	25	25	24	24	24	25	24	24	31	6	24	27
Mean		3.2357	4.4643	2.9433	2.4043	4.0000	2.9500	3.8369	4.0496	4.2239	4.7194	3.0142	2.2464
Median		3.0000	5.0000	3.0000	2.0000	4.0000	3.0000	4.0000	4.0000	4.0000	5.0000	3.0000	2.0000
Std. Deviation		1.36034	.79938	1.03353	1.92717	1.04881	1.17115	1.15650	1.14845	.78176	.59012	1.36793	1.27011

Case Scenario 1: Individual Frequency Tables for Part B ratings of each of the 12 issues.

Whether the client can afford the solicitor's fees.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	24	14.5	17.1	17.1
	Little Importance	15	9.1	10.7	27.9
	Some Importance	34	20.6	24.3	52.1
	Important	38	23.0	27.1	79.3
	Very Important	29	17.6	20.7	100.0
	Total	140	84.8	100.0	
Missing	System	25	15.2		
Total		165	100.0		

What are the consequences for Ros if she goes against the firm's policy?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	15	9.1	10.6	10.6
	Little Importance	28	17.0	19.9	30.5
	Some Importance	54	32.7	38.3	68.8
	Important	38	23.0	27.0	95.7
	Very Important	6	3.6	4.3	100.0
	Total	141	85.5	100.0	
Missing	System	24	14.5		
Total		165	100.0		

What is best for Ros' firm?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	36	21.8	25.5	25.5
	Little Importance	47	28.5	33.3	58.9
	Some Importance	42	25.5	29.8	88.7
	Important	14	8.5	9.9	98.6
	Very Important	1	.6	.7	99.3
	22.00	1	.6	.7	100.0
	Total	141	85.5	100.0	
Missing	System	24	14.5		
Total		165	100.0		

Do the firm's commercial arrangements impact on Ros' professional reputatio

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	5	3.0	3.5	3.5
	Little Importance	12	7.3	8.5	12.1
	Some Importance	11	6.7	7.8	19.9
	Important	63	38.2	44.7	64.5
	Very Important	50	30.3	35.5	100.0
	Total	141	85.5	100.0	
Missing	System	24	14.5		
Total		165	100.0		

Whether Ros' job may be threatened if she refuses to refer the client.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	19	11.5	13.6	13.6
	Little Importance	28	17.0	20.0	33.6
	Some Importance	48	29.1	34.3	67.9
	Important	31	18.8	22.1	90.0
	Very Important	14	8.5	10.0	100.0
	Total	140	84.8	100.0	
Missing	System	25	15.2		
Total		165	100.0		

Whether someone in Ros' position should object to the firm's practice?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	10	6.1	7.1	7.1
	Little Importance	10	6.1	7.1	14.2
	Some Importance	17	10.3	12.1	26.2
	Important	60	36.4	42.6	68.8
	Very Important	44	26.7	31.2	100.0
	Total	141	85.5	100.0	
Missing	System	24	14.5		
Total		165	100.0		

Whether the fiduciary duty Ros has is higher to her employer or the client?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	8	4.8	5.7	5.7
	Little Importance	7	4.2	5.0	10.6
	Some Importance	20	12.1	14.2	24.8
	Important	41	24.8	29.1	53.9
	Very Important	65	39.4	46.1	100.0
	Total	141	85.5	100.0	
Missing	System	24	14.5		
Total		165	100.0		

What factors are relevant in determining Ros' professional responsibility?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	1	.6	.7	.7
	Little Importance	1	.6	.7	1.5
	Some Importance	20	12.1	14.9	16.4
	Important	57	34.5	42.5	59.0
	Very Important	55	33.3	41.0	100.0
	Total	134	81.2	100.0	
Missing	System	31	18.8		
Total		165	100.0		

Vhether it is unlawful to refer the client to this firm without disclosing the relatio

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Little Importance	2	1.2	1.4	1.4
	Some Importance	4	2.4	2.9	4.3
	Important	25	15.2	18.0	22.3
	Very Important	108	65.5	77.7	100.0
	Total	139	84.2	100.0	
Missing	System	26	15.8		
Total		165	100.0		

Nould the client really care about the arrangement provided she got appropriate legal advice?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	27	16.4	19.1	19.1
	Little Importance	26	15.8	18.4	37.6
	Some Importance	29	17.6	20.6	58.2
	Important	36	21.8	25.5	83.7
	Very Important	23	13.9	16.3	100.0
	Total	141	85.5	100.0	
Missing	System	24	14.5		
Total		165	100.0		

What action would Ros' co-workers expect her to take?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	48	29.1	34.8	34.8
	Little Importance	40	24.2	29.0	63.8
	Some Importance	25	15.2	18.1	81.9
	Important	18	10.9	13.0	94.9
	Very Important	7	4.2	5.1	100.0
	Total	138	83.6	100.0	
Missing	System	27	16.4		
Total		165	100.0		

APPENDIX D.20: FREQUENCY TABLES FOR PART B RATINGS RESPONSES TO CASE SCENARIO 2 OF THE FAIT INSTRUMENT

Statistics

		Whether it is possible to make the switch recommendation without the clients being worse off?	Will the decision have any effect on Andrew's reputation in Olbury?	Whether Andrew is more responsible to his Licensee or his client	Would a switch recommendation violate the interests of the other citizens of Olbury?	Whether other Licensees recommend switches to in house products	Is payment of an exit fee justified in the circumstances?	Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?	What are the risks to Andrew in making the switch recommendation?	Are the couple actively seeking employment?	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general?	Does a switching recommendation constitute a breach of Andrew's professional obligations?	What values are the basis for determining which stakeholders interests takes precedence when they conflict?
N	Valid	127	130	130	129	130	127	126	130	130	129	130	123
	Missing	38	35	35	36	35	38	39	35	35	36	35	42
Mean		4.5118	3.1616	3.4769	2.1550	1.7000	4.1339	4.5079	3.9000	2.9154	4.2093	4.5385	4.0488
Median		5.0000	3.0000	4.0000	2.0000	1.0000	4.0000	5.0000	4.0000	3.0000	4.0000	5.0000	4.0000
Std. Deviation		.81519	1.22509	1.45323	1.22123	1.01653	1.01075	.58986	1.02564	1.40340	.84479	.69499	.94828

Case Scenario 2: Individual Frequency Tables for the Part B Ratings Given to the 12 Issues

Whether it is possible to make the switch recommendation without the clients being worse off?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	2	1.2	1.6	1.6
	Little Importance	1	.6	.8	2.4
	Some Importance	11	6.7	8.7	11.0
	Important	29	17.6	22.8	33.9
	Very Important	84	50.9	66.1	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

Will the decision have any effect on Andrew's reputation in Olbury?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	12	7.3	9.2	9.2
	Little Importance	30	18.2	23.1	32.3
	Some Importance	35	21.2	26.9	59.2
	Important	31	18.8	23.8	83.1
	Very Important	22	13.3	16.9	100.0
	Total	130	78.8	100.0	
Missing	System	35	21.2		
Total		165	100.0		

Whether Andrew is more responsible to his Licensee or his client

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	20	12.1	15.4	15.4
	Little Importance	18	10.9	13.8	29.2
	Some Importance	14	8.5	10.8	40.0
	Important	36	21.8	27.7	67.7
	Very Important	42	25.5	32.3	100.0
	Total	130	78.8	100.0	
Missing	System	35	21.2		
Total		165	100.0		

Would a switch recommendation violate the interests of the other citizens of Olb

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	53	32.1	41.1	41.1
	Little Importance	30	18.2	23.3	64.3
	Some Importance	26	15.8	20.2	84.5
	Important	13	7.9	10.1	94.6
	Very Important	7	4.2	5.4	100.0
	Total	129	78.2	100.0	
Missing	System	36	21.8		
Total		165	100.0		

Whether other Licensees recommend switches to in house products

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	74	44.8	56.9	56.9
	Little Importance	35	21.2	26.9	83.8
	Some Importance	11	6.7	8.5	92.3
	Important	6	3.6	4.6	96.9
	Very Important	4	2.4	3.1	100.0
	Total	130	78.8	100.0	
Missing	System	35	21.2		
Total		165	100.0		

Is payment of an exit fee justified in the circumstances?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	3	1.8	2.4	2.4
	Little Importance	8	4.8	6.3	8.7
	Some Importance	15	9.1	11.8	20.5
	Important	44	26.7	34.6	55.1
	Very Important	57	34.5	44.9	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

Would the recommendation violate the values that Andrew has set himself for his personal standards of behaviour?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Some Importance	6	3.6	4.8	4.8
	Important	50	30.3	39.7	44.4
	Very Important	70	42.4	55.6	100.0
	Total	126	76.4	100.0	
Missing	System	39	23.6		
Total		165	100.0		

What are the risks to Andrew in making the switch recommendation?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	4	2.4	3.1	3.1
	Little Importance	8	4.8	6.2	9.2
	Some Importance	27	16.4	20.8	30.0
	Important	49	29.7	37.7	67.7
	Very Important	42	25.5	32.3	100.0
	Total	130	78.8	100.0	
Missing	System	35	21.2		
Total		165	100.0		

Are the couple actively seeking employment?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	28	17.0	21.5	21.5
	Little Importance	28	17.0	21.5	43.1
	Some Importance	22	13.3	16.9	60.0
	Important	31	18.8	23.8	83.8
	Very Important	21	12.7	16.2	100.0
	Total	130	78.8	100.0	
Missing	System	35	21.2		
Total		165	100.0		

Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	1	.6	.8	.8
	Little Importance	4	2.4	3.1	3.9
	Some Importance	17	10.3	13.2	17.1
	Important	52	31.5	40.3	57.4
	Very Important	55	33.3	42.6	100.0
	Total	129	78.2	100.0	
Missing	System	36	21.8		
Total		165	100.0		

Does a switching recommendation constitute a breach of Andrew's professional obligations?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	1	.6	.8	.8
	Little Importance	1	.6	.8	1.5
	Some Importance	6	3.6	4.6	6.2
	Important	41	24.8	31.5	37.7
	Very Important	81	49.1	62.3	100.0
	Total	130	78.8	100.0	
Missing	System	35	21.2		
Total		165	100.0		

What values are the basis for determining which stakeholders interests takes precedence when they conflict?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	2	1.2	1.6	1.6
	Little Importance	5	3.0	4.1	5.7
	Some Importance	25	15.2	20.3	26.0
	Important	44	26.7	35.8	61.8
	Very Important	47	28.5	38.2	100.0
	Total	123	74.5	100.0	
Missing	System	42	25.5		
Total		165	100.0		

APPENDIX D.21: FREQUENCY TABLES FOR PART B RATINGS RESPONSES TO CASE SCENARIO 3 OF THE FAIT INSTRUMENT

Statistics

		Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and recommend another strategy?	What is in the firm's interests?	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	What is fair remuneration for work done?	Are any other advisers providing similar services for a similar fee structure?	Would Jessica's decision be consistent with what she believes is just?	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	Whether fee structures impact on the profession's reputation within society	Whether the investment is viable given the fee structure?	Jessica's ability to continue in practice and meet her own financial obligations?	Whether Kevin understands the level of service and what it will cost.	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the strategy.
N	Valid	127	127	127	127	127	126	126	125	125	126	127	127
	Missing	38	38	38	38	38	39	39	40	40	39	38	38
Mean		4.2520	4.2520	4.2126	4.1181	2.2047	4.1429	3.5556	3.4240	4.3200	2.6270	4.6457	3.7323
Median		4.0000	4.0000	4.0000	4.0000	2.0000	4.0000	4.0000	3.0000	5.0000	3.0000	5.0000	4.0000
Std. Deviation		.83541	.83541	.81289	.81289	1.04910	.75593	.93429	.92687	.90340	1.28209	.62396	1.04235

Case Scenario 3: Individual Frequency Tables for Part B ratings for each of the 12 issues

Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and recommend another strategy?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	2	1.2	1.6	1.6
	Little Importance	1	.6	.8	2.4
	Some Importance	17	10.3	13.4	15.7
	Important	50	30.3	39.4	55.1
	Very Important	57	34.5	44.9	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

What is in the firm's interests?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	40	24.2	31.5	31.5
	Little Importance	45	27.3	35.4	66.9
	Some Importance	30	18.2	23.6	90.6
	Important	9	5.5	7.1	97.6
	Very Important	3	1.8	2.4	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

Is Jessica obliged by professional standards to assess the reasonableness of the fees?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	2	1.2	1.6	1.6
	Little Importance	2	1.2	1.6	3.1
	Some Importance	13	7.9	10.2	13.4
	Important	60	36.4	47.2	60.6
	Very Important	50	30.3	39.4	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

What is fair remuneration for work done?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	1	.6	.8	.8
	Little Importance	2	1.2	1.6	2.4
	Some Importance	23	13.9	18.1	20.5
	Important	56	33.9	44.1	64.6
	Very Important	45	27.3	35.4	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

Are any other advisers providing similar services for a similar fee structure?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	40	24.2	31.5	31.5
	Little Importance	39	23.6	30.7	62.2
	Some Importance	31	18.8	24.4	86.6
	Important	16	9.7	12.6	99.2
	Very Important	1	.6	.8	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

Would Jessica's decision be consistent with what she believes is just?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Little Importance	3	1.8	2.4	2.4
	Some Importance	19	11.5	15.1	17.5
	Important	61	37.0	48.4	65.9
	Very Important	43	26.1	34.1	100.0
	Total	126	76.4	100.0	
Missing	System	39	23.6		
Total		165	100.0		

What are the values that govern fair fee practices when fee schedules are left to the market to determine?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	3	1.8	2.4	2.4
	Little Importance	14	8.5	11.1	13.5
	Some Importance	35	21.2	27.8	41.3
	Important	58	35.2	46.0	87.3
	Very Important	16	9.7	12.7	100.0
	Total	126	76.4	100.0	
Missing	System	39	23.6		
Total		165	100.0		

Whether fee structures impact on the profession's reputation within society.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	2	1.2	1.6	1.6
	Little Importance	17	10.3	13.6	15.2
	Some Importance	47	28.5	37.6	52.8
	Important	44	26.7	35.2	88.0
	Very Important	15	9.1	12.0	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

Whether the investment is viable given the fee structure?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	2	1.2	1.6	1.6
	Little Importance	4	2.4	3.2	4.8
	Some Importance	13	7.9	10.4	15.2
	Important	39	23.6	31.2	46.4
	Very Important	67	40.6	53.6	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

Jessica's ability to continue in practice and meet her own financial obligation

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	32	19.4	25.4	25.4
	Little Importance	28	17.0	22.2	47.6
	Some Importance	32	19.4	25.4	73.0
	Important	23	13.9	18.3	91.3
	Very Important	11	6.7	8.7	100.0
	Total	126	76.4	100.0	
Missing	System	39	23.6		
Total		165	100.0		

Whether Kevin understands the level of service and what it will cost.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Little Importance	1	.6	.8	.8
	Some Importance	7	4.2	5.5	6.3
	Important	28	17.0	22.0	28.3
	Very Important	91	55.2	71.7	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the strategy.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	4	2.4	3.1	3.1
	Little Importance	10	6.1	7.9	11.0
	Some Importance	36	21.8	28.3	39.4
	Important	43	26.1	33.9	73.2
	Very Important	34	20.6	26.8	100.0
	Total	127	77.0	100.0	
Missing	System	38	23.0		
Total		165	100.0		

APPENDIX D.22: FREQUENCY TABLES FOR PART B RATINGS RESPONSES TO CASE SCENARIO 4 OF THE FAIT INSTRUMENT

Statistics

		What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the previous adviser?	What research did the previous adviser do?	Is there also an ethical breach that should be reported to a professional body?	Does Nicholas have the expertise to review the previous adviser's advice?	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	How will Nicholas' actions be perceived by other advisers within the Licensee?	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	Will it have an adverse effect on Nicholas' relationship with the other adviser?	What impact will it have on Nicholas' reputation within the Licensee?
N	Valid	122	125	125	125	125	124	125	124	125	125	125	125
	Missing	43	40	40	40	40	41	40	41	40	40	40	40
Mean		3.4918	3.6560	4.1040	3.8400	3.7760	3.7500	3.0640	3.5968	2.2000	4.0160	1.7840	2.2240
Median		4.0000	4.0000	4.0000	4.0000	4.0000	4.0000	3.0000	4.0000	2.0000	4.0000	2.0000	2.0000
Std. Deviation		1.22809	1.28329	1.01460	.96219	.95769	1.14498	1.22963	1.10372	1.03954	1.12869	.88522	1.12783

Case Scenario 4: Individual Frequency Tables for Part B ratings for each of the 12 issues.

What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the previous adviser?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	9	5.5	7.4	7.4
	Little Importance	20	12.1	16.4	23.8
	Some Importance	24	14.5	19.7	43.4
	Important	40	24.2	32.8	76.2
	Very Important	29	17.6	23.8	100.0
	Total	122	73.9	100.0	
Missing	System	43	26.1		
Total		165	100.0		

What research did the previous adviser do?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	13	7.9	10.4	10.4
	Little Importance	12	7.3	9.6	20.0
	Some Importance	17	10.3	13.6	33.6
	Important	46	27.9	36.8	70.4
	Very Important	37	22.4	29.6	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

Is there also an ethical breach that should be reported to a professional body

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	3	1.8	2.4	2.4
	Little Importance	7	4.2	5.6	8.0
	Some Importance	19	11.5	15.2	23.2
	Important	41	24.8	32.8	56.0
	Very Important	55	33.3	44.0	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

Does Nicholas have the expertise to review the previous adviser's advice?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	5	3.0	4.0	4.0
	Little Importance	3	1.8	2.4	6.4
	Some Importance	30	18.2	24.0	30.4
	Important	56	33.9	44.8	75.2
	Very Important	31	18.8	24.8	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	3	1.8	2.4	2.4
	Little Importance	8	4.8	6.4	8.8
	Some Importance	32	19.4	25.6	34.4
	Important	53	32.1	42.4	76.8
	Very Important	29	17.6	23.2	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

What are the consequences to Nicholas if he doesn't advise someone of his concerns?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	8	4.8	6.5	6.5
	Little Importance	9	5.5	7.3	13.7
	Some Importance	25	15.2	20.2	33.9
	Important	46	27.9	37.1	71.0
	Very Important	36	21.8	29.0	100.0
	Total	124	75.2	100.0	
Missing	System	41	24.8		
Total		165	100.0		

Whether Nicholas should refer the matter to the previous adviser for discussion and resolution

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	18	10.9	14.4	14.4
	Little Importance	21	12.7	16.8	31.2
	Some Importance	36	21.8	28.8	60.0
	Important	35	21.2	28.0	88.0
	Very Important	15	9.1	12.0	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	6	3.6	4.8	4.8
	Little Importance	14	8.5	11.3	16.1
	Some Importance	32	19.4	25.8	41.9
	Important	44	26.7	35.5	77.4
	Very Important	28	17.0	22.6	100.0
	Total	124	75.2	100.0	
Missing	System	41	24.8		
Total		165	100.0		

How will Nicholas' actions be perceived by other advisers within the Licensee

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	38	23.0	30.4	30.4
	Little Importance	40	24.2	32.0	62.4
	Some Importance	34	20.6	27.2	89.6
	Important	10	6.1	8.0	97.6
	Very Important	3	1.8	2.4	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	7	4.2	5.6	5.6
	Little Importance	7	4.2	5.6	11.2
	Some Importance	15	9.1	12.0	23.2
	Important	44	26.7	35.2	58.4
	Very Important	52	31.5	41.6	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

Will it have an adverse effect on Nicholas' relationship with the other adviser?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	58	35.2	46.4	46.4
	Little Importance	43	26.1	34.4	80.8
	Some Importance	17	10.3	13.6	94.4
	Important	7	4.2	5.6	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

What impact will it have on Nicholas' reputation within the Licensee?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not Important	44	26.7	35.2	35.2
	Little Importance	30	18.2	24.0	59.2
	Some Importance	33	20.0	26.4	85.6
	Important	15	9.1	12.0	97.6
	Very Important	3	1.8	2.4	100.0
	Total	125	75.8	100.0	
Missing	System	40	24.2		
Total		165	100.0		

APPENDIX D.23: MEAN AND PERCENTAGE SCORES FOR THE PART B RATINGS RESPONSES TO THE FAIT CASE SCENARIOS

Appendix D.23.1: Case Scenario 1

QNo.	Stage	Question Wording	Mean	I/VI*
Q03	Pre	What are the consequences for Ros if she goes against the firm's policy?	2.94	65%
Q04	Pre	What is best for Ros' firm?	2.40	40%
Q06	Pre	Whether Ros' job may be threatened if she refuses to refer the client.	2.95	56%
Q11	Pre	Would the client really care about the arrangement provided she got appropriate legal advice?	3.01	46%
Q01	Con	Whether the client can afford the solicitor's fees.	3.24	51%
Q02	Con	Would the referral be consistent with what Ros thinks is right?	4.46	36%
Q10	Con	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	4.72	21%
Q12	Con	What action would Ros' co-workers expect her to take?	2.25	31%
Q05	Post	Do the firm's commercial arrangements impact on Ros' professional reputation?	4.00	52%
Q07	Post	Whether someone in Ros' position should object to the firm's practice?	3.84	55%
Q08	Post	Whether the fiduciary duty Ros has is higher to her employer or the client?	4.05	43%
Q09	Post	What factors are relevant in determining Ros' professional responsibility?	4.22	57%

* Combination of percentage of important and very important

Appendix D.23.2: Case Scenario 2

QNo.	Stage	Question Wording	Mean	I/VI*
Q05	Pre	Whether other Licensees recommend switches to in house products	1.70	8%
Q06	Pre	Is payment of an exit fee justified in the circumstances?	4.13	80%
Q08	Pre	What are the risks to Andrew in making the switch recommendation?	3.90	40%
Q09	Pre	Are the couple actively seeking employment?	2.92	83%
Q01	Con	Whether it is possible to make the switch recommendation without the clients being worse off?	4.51	89%
Q02	Con	Will the decision have any effect on Andrew's reputation in Olbury?	3.16	41%
Q03	Con	Whether Andrew is more responsible to his Licensee or his client	3.48	60%
Q11	Con	Does a switching recommendation constitute a breach of Andrew's professional obligations?	4.54	94%
Q04	Post	Would a switch recommendation violate the interests of the other citizens of Olbury?	2.16	16%
Q07	Post	Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?	4.51	95%
Q10	Post	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general?	4.21	83%
Q12	Post	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	4.05	74%

* Combination of percentage of important and very important

Appendix D.23.3: Case Scenario 3

QNo.	Stage	Question Wording	Mean	I/VI*
Q02	Pre	What is in the firm's interests?	2.13	9%
Q05	Pre	Are any other advisers providing similar services for a similar fee structure?	2.20	13%
Q10	Pre	Jessica's ability to continue in practice and meet her own financial obligations?	2.63	27%
Q11	Pre	Whether Kevin understands the level of service and what it will cost.	4.65	94%
Q03	Con	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	4.21	87%
Q04	Con	What is fair remuneration for work done?	4.12	80%
Q06	Con	Would Jessica's decision be consistent with what she believes is just?	4.14	83%
Q12	Con	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the strategy.	3.73	61%
Q01	Post	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and recommend another strategy?	4.25	84%
Q07	Post	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	3.56	59%
Q08	Post	Whether fee structures impact on the profession's reputation within society.	3.42	47%
Q09	Post	Whether the investment is viable given the fee structure?	4.32	85%

* Combination of percentage of important and very important

Appendix D.23.4: Case Scenario 4

QNo.	Stage	Question Wording	Mean	I/VI*
Q02	Pre	What research did the previous adviser do?	3.66	66%
Q06	Pre	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	3.75	66%
Q09	Pre	How will Nicholas' actions be perceived by other advisers within the Licensee?	2.20	10%
Q11	Pre	Will it have an adverse effect on Nicholas' relationship with the other adviser?	1.78	6%
Q03	Con	Is there also an ethical breach that should be reported to a professional body?	4.10	77%
Q04	Con	Does Nicholas have the expertise to review the previous adviser's advice?	3.84	70%
Q07	Con	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	3.06	40%
Q12	Con	What impact will it have on Nicholas' reputation within the Licensee?	2.22	14%
Q01	Post	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the previous adviser?	3.49	57%
Q05	Post	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	3.78	66%
Q08	Post	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	3.60	58%
Q10	Post	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	4.02	77%

APPENDIX D.24: FREQUENCY TABLES FOR PART C RANKING RESPONSES TO CASE SCENARIO 1 OF THE FAIT INSTRUMENT

1 - Most Important Issue

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether the client can afford the solicitor's fees.	9	5.5	6.9	6.9
	Would the referral be consistent with what Ros thinks is right?	28	17.0	21.4	28.2
	What are the consequences for Ros if she goes against the firm's policy?	1	.6	.8	29.0
	Do the firm's commercial arrangements impact on Ros' professional reputation?	1	.6	.8	29.8
	Whether Ros' job may be threatened if she refuses to refer the client.	1	.6	.8	30.5
	Whether someone in Ros' position should object to the firm's practice?	1	.6	.8	31.3
	Whether the fiduciary duty Ros has is higher to her employer or the client?	34	20.6	26.0	57.3
	What factors are relevant in determining Ros' professional responsibility?	6	3.6	4.6	61.8
	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	49	29.7	37.4	99.2
	Would the client really care about the arrangement provided she got appropriate legal advice?	1	.6	.8	100.0
	Total	131	79.4	100.0	
Missing	System	34	20.6		
Total		165	100.0		

2 - Second Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether the client can afford the solicitor's fees.	11	6.7	8.4	8.4
	Would the referral be consistent with what Ros thinks is right?	13	7.9	9.9	18.3
	What are the consequences for Ros if she goes against the firm's policy?	2	1.2	1.5	19.8
	What is best for Ros' firm?	2	1.2	1.5	21.4
	Do the firm's commercial arrangements impact on Ros' professional reputation?	14	8.5	10.7	32.1
	Whether Ros' job may be threatened if she refuses to refer the client.	3	1.8	2.3	34.4
	Whether someone in Ros' position should object to the firm's practice?	6	3.6	4.6	38.9
	Whether the fiduciary duty Ros has is higher to her employer or the client?	27	16.4	20.6	59.5
	What factors are relevant in determining Ros' professional responsibility?	18	10.9	13.7	73.3
	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	34	20.6	26.0	99.2
	Would the client really care about the arrangement provided she got appropriate legal advice?	1	.6	.8	100.0
	Total	131	79.4	100.0	
Missing	System	34	20.6		
Total		165	100.0		

3 - Third Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether the client can afford the solicitor's fees.	7	4.2	5.3	5.3
	Would the referral be consistent with what Ros thinks is right?	18	10.9	13.7	19.1
	What are the consequences for Ros if she goes against the firm's policy?	9	5.5	6.9	26.0
	What is best for Ros' firm?	2	1.2	1.5	27.5
	Do the firm's commercial arrangements impact on Ros' professional reputation?	17	10.3	13.0	40.5
	Whether Ros' job may be threatened if she refuses to refer the client.	5	3.0	3.8	44.3
	Whether someone in Ros' position should object to the firm's practice?	14	8.5	10.7	55.0
	Whether the fiduciary duty Ros has is higher to her employer or the client?	16	9.7	12.2	67.2
	What factors are relevant in determining Ros' professional responsibility?	24	14.5	18.3	85.5
	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	15	9.1	11.5	96.9
	Would the client really care about the arrangement provided she got appropriate legal advice?	3	1.8	2.3	99.2
	What action would Ros' co-workers expect her to take?	1	.6	.8	100.0
	Total	131	79.4	100.0	
Missing	System	34	20.6		
Total		165	100.0		

4 - Fourth Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether the client can afford the solicitor's fees.	7	4.2	5.5	5.5
	Would the referral be consistent with what Ros thinks is right?	25	15.2	19.5	25.0
	What are the consequences for Ros if she goes against the firm's policy?	7	4.2	5.5	30.5
	What is best for Ros' firm?	7	4.2	5.5	35.9
	Do the firm's commercial arrangements impact on Ros' professional reputation?	21	12.7	16.4	52.3
	Whether Ros' job may be threatened if she refuses to refer the client.	6	3.6	4.7	57.0
	Whether someone in Ros' position should object to the firm's practice?	17	10.3	13.3	70.3
	Whether the fiduciary duty Ros has is higher to her employer or the client?	5	3.0	3.9	74.2
	What factors are relevant in determining Ros' professional responsibility?	15	9.1	11.7	85.9
	Whether it is unlawful to refer the client to this firm without disclosing the relationship.	14	8.5	10.9	96.9
	Would the client really care about the arrangement provided she got appropriate legal advice?	2	1.2	1.6	98.4
	What action would Ros' co-workers expect her to take?	2	1.2	1.6	100.0
	Total	128	77.6	100.0	
Missing	System	37	22.4		
Total		165	100.0		

APPENDIX D.25: FREQUENCY TABLES FOR PART C RATINGS RESPONSES TO CASE SCENARIO 2 OF THE FAIT INSTRUMENT

1 - Most Important Issue

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether it is possible to make the switch recommendation without the clients being worse off?	51	30.9	41.5	41.5
	Will the decision have any effect on Andrew's reputation in Olbury?	1	.6	.8	42.3
	Whether Andrew is more responsible to his Licensee or his client	9	5.5	7.3	49.6
	Whether other Licensees recommend switches to in house products	1	.6	.8	50.4
	Is payment of an exit fee justified in the circumstances?	4	2.4	3.3	53.7
	Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?	13	7.9	10.6	64.2
	What are the risks to Andrew in making the switch recommendation?	2	1.2	1.6	65.9
	Are the couple actively seeking employment?	1	.6	.8	66.7
	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general	17	10.3	13.8	80.5
	Does a switching recommendation constitute a breach of Andrew's professional obligations?	21	12.7	17.1	97.6
	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	3	1.8	2.4	100.0
	Total	123	74.5	100.0	
Missing	System	42	25.5		
Total		165	100.0		

2 - Second Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether it is possible to make the switch recommendation without the clients being worse off?	18	10.9	14.6	14.6
	Will the decision have any effect on Andrew's reputation in Olbury?	3	1.8	2.4	17.1
	Whether Andrew is more responsible to his Licensee or his client	10	6.1	8.1	25.2
	Would a switch recommendation violate the interests of the other citizens of Olbury?	1	.6	.8	26.0
	Is payment of an exit fee justified in the circumstances?	24	14.5	19.5	45.5
	Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?	19	11.5	15.4	61.0
	What are the risks to Andrew in making the switch recommendation?	2	1.2	1.6	62.6
	Are the couple actively seeking employment?	4	2.4	3.3	65.9
	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general	15	9.1	12.2	78.0
	Does a switching recommendation constitute a breach of Andrew's professional obligations?	24	14.5	19.5	97.6
	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	3	1.8	2.4	100.0
	Total	123	74.5	100.0	
Missing	System	42	25.5		
Total		165	100.0		

3 - Third Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether it is possible to make the switch recommendation without the clients being worse off?	11	6.7	8.9	8.9
	Whether Andrew is more responsible to his Licensee or his client	8	4.8	6.5	15.4
	Would a switch recommendation violate the interests of the other citizens of Olbury?	2	1.2	1.6	17.1
	Is payment of an exit fee justified in the circumstances?	20	12.1	16.3	33.3
	Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?	27	16.4	22.0	55.3
	What are the risks to Andrew in making the switch recommendation?	3	1.8	2.4	57.7
	Are the couple actively seeking employment?	2	1.2	1.6	59.3
	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general	24	14.5	19.5	78.9
	Does a switching recommendation constitute a breach of Andrew's professional obligations?	19	11.5	15.4	94.3
	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	7	4.2	5.7	100.0
	Total	123	74.5	100.0	
Missing	System	42	25.5		
Total		165	100.0		

4 - Fourth Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether it is possible to make the switch recommendation without the clients being worse off?	11	6.7	8.9	8.9
	Will the decision have any effect on Andrew's reputation in Olbury?	2	1.2	1.6	10.6
	Whether Andrew is more responsible to his Licensee or his client	10	6.1	8.1	18.7
	Would a switch recommendation violate the interests of the other citizens of Olbury?	6	3.6	4.9	23.6
	Is payment of an exit fee justified in the circumstances?	12	7.3	9.8	33.3
	Would the recommendation violate the values that Andrew has set himself for his own personal standards of behaviour?	17	10.3	13.8	47.2
	What are the risks to Andrew in making the switch recommendation?	6	3.6	4.9	52.0
	Are the couple actively seeking employment?	3	1.8	2.4	54.5
	Whether a recommendation to switch would be considered reasonable by an independent assessment and by society in general	24	14.5	19.5	74.0
	Does a switching recommendation constitute a breach of Andrew's professional obligations?	20	12.1	16.3	90.2
	What values are the basis for determining which stakeholders interests takes precedence when they conflict?	12	7.3	9.8	100.0
	Total	123	74.5	100.0	
Missing	System	42	25.5		
Total		165	100.0		

APPENDIX D.26: FREQUENCY TABLES FOR PART C RATINGS RESPONSES TO CASE SCENARIO 3 OF THE FAIT INSTRUMENT

1 - Most Important Issue

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and re	45	27.3	37.2	37.2
	What is in the firm's interests?	2	1.2	1.7	38.8
	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	9	5.5	7.4	46.3
	What is fair remuneration for work done?	11	6.7	9.1	55.4
	Would Jessica's decision be consistent with what she believes is just?	8	4.8	6.6	62.0
	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	2	1.2	1.7	63.6
	Whether fee structures impact on the profession's reputation within society.	1	.6	.8	64.5
	Whether the investment is viable given the fee structure?	14	8.5	11.6	76.0
	Whether Kevin understands the level of service and what it will cost.	21	12.7	17.4	93.4
	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the	8	4.8	6.6	100.0
	Total	121	73.3	100.0	
Missing	System	44	26.7		
Total		165	100.0		

2 - Second Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and re	15	9.1	12.4	12.4
	What is in the firm's interests?	2	1.2	1.7	14.0
	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	17	10.3	14.0	28.1
	What is fair remuneration for work done?	16	9.7	13.2	41.3
	Are any other advisers providing similar services for a similar fee structure?	1	.6	.8	42.1
	Would Jessica's decision be consistent with what she believes is just?	10	6.1	8.3	50.4
	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	3	1.8	2.5	52.9
	Whether the investment is viable given the fee structure?	22	13.3	18.2	71.1
	Jessica's ability to continue in practice and meet her own financial obligations?	2	1.2	1.7	72.7
	Whether Kevin understands the level of service and what it will cost.	25	15.2	20.7	93.4
	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the	8	4.8	6.6	100.0
	Total	121	73.3	100.0	
Missing	System	44	26.7		
Total		165	100.0		

3 - Third Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and re	7	4.2	5.8	5.8
	What is in the firm's interests?	1	.6	.8	6.6
	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	17	10.3	14.0	20.7
	What is fair remuneration for work done?	15	9.1	12.4	33.1
	Would Jessica's decision be consistent with what she believes is just?	22	13.3	18.2	51.2
	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	5	3.0	4.1	55.4
	Whether fee structures impact on the profession's reputation within society.	3	1.8	2.5	57.9
	Whether the investment is viable given the fee structure?	18	10.9	14.9	72.7
	Jessica's ability to continue in practice and meet her own financial obligations?	1	.6	.8	73.6
	Whether Kevin understands the level of service and what it will cost.	21	12.7	17.4	90.9
	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the	11	6.7	9.1	100.0
	Total	121	73.3	100.0	
Missing	System	44	26.7		
Total		165	100.0		

4 - Fourth Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Whether given Kevin's age, Jessica also has an obligation to counsel him about his aggressive investment approach and re	11	6.7	9.2	9.2
	Is Jessica obliged by professional standards to assess the reasonableness of the fees?	10	6.1	8.4	17.6
	What is fair remuneration for work done?	19	11.5	16.0	33.6
	Are any other advisers providing similar services for a similar fee structure?	2	1.2	1.7	35.3
	Would Jessica's decision be consistent with what she believes is just?	11	6.7	9.2	44.5
	What are the values that govern fair fee practices when fee schedules are left to the market to determine?	5	3.0	4.2	48.7
	Whether fee structures impact on the profession's reputation within society.	5	3.0	4.2	52.9
	Whether the investment is viable given the fee structure?	10	6.1	8.4	61.3
	Jessica's ability to continue in practice and meet her own financial obligations?	5	3.0	4.2	65.5
	Whether Kevin understands the level of service and what it will cost.	25	15.2	21.0	86.6
	Whether fees charged should be commensurate with the level of investment risk and the skill associated with devising the	16	9.7	13.4	100.0
	Total	119	72.1	100.0	
Missing	System	46	27.9		
Total		165	100.0		

APPENDIX D.27: FREQUENCY TABLES FOR PART C RATINGS RESPONSES TO CASE SCENARIO 4 OF THE FAIT INSTRUMENT

1 - Most Important Issue

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the p	34	20.6	28.8	28.8
	What research did the previous adviser do?	15	9.1	12.7	41.5
	Is there also an ethical breach that should be reported to a professional body?	26	15.8	22.0	63.6
	Does Nicholas have the expertise to review the previous adviser's advice?	10	6.1	8.5	72.0
	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	6	3.6	5.1	77.1
	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	6	3.6	5.1	82.2
	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	7	4.2	5.9	88.1
	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	14	8.5	11.9	100.0
	Total	118	71.5	100.0	
Missing	System	47	28.5		
Total		165	100.0		

2 - Second Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the p	6	3.6	5.1	5.1
	What research did the previous adviser do?	18	10.9	15.3	20.3
	Is there also an ethical breach that should be reported to a professional body?	30	18.2	25.4	45.8
	Does Nicholas have the expertise to review the previous adviser's advice?	14	8.5	11.9	57.6
	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	13	7.9	11.0	68.6
	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	9	5.5	7.6	76.3
	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	4	2.4	3.4	79.7
	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	12	7.3	10.2	89.8
	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	12	7.3	10.2	100.0
	Total	118	71.5	100.0	
Missing	System	47	28.5		
Total		165	100.0		

3 - Third Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the p	6	3.6	5.1	5.1
	What research did the previous adviser do?	6	3.6	5.1	10.2
	Is there also an ethical breach that should be reported to a professional body?	16	9.7	13.6	23.7
	Does Nicholas have the expertise to review the previous adviser's advice?	16	9.7	13.6	37.3
	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	20	12.1	16.9	54.2
	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	12	7.3	10.2	64.4
	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	5	3.0	4.2	68.6
	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	14	8.5	11.9	80.5
	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	23	13.9	19.5	100.0
	Total	118	71.5	100.0	
Missing	System	47	28.5		
Total		165	100.0		

4 - Fourth Most Important

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	What are the values that Nicholas should use to reconcile the competing loyalties to the clients, the Licensee and the p	9	5.5	7.8	7.8
	What research did the previous adviser do?	10	6.1	8.6	16.4
	Is there also an ethical breach that should be reported to a professional body?	9	5.5	7.8	24.1
	Does Nicholas have the expertise to review the previous adviser's advice?	17	10.3	14.7	38.8
	Does society expect Nicholas' responsibilities to extend beyond the giving advice to clients?	8	4.8	6.9	45.7
	What are the consequences to Nicholas if he doesn't advise someone of his concerns?	20	12.1	17.2	62.9
	Whether Nicholas should refer the matter to the previous adviser for discussion and resolution	4	2.4	3.4	66.4
	What factors are relevant to ensure that Nicholas does not bring the profession into disrepute?	14	8.5	12.1	78.4
	How will Nicholas' actions be perceived by other advisers within the Licensee?	2	1.2	1.7	80.2
	Does Nicholas have a professional duty to protect other clients of the Licensee who may be affected?	19	11.5	16.4	96.6
	What impact will it have on Nicholas' reputation within the Licensee?	4	2.4	3.4	100.0
	Total	116	70.3	100.0	
Missing	System	49	29.7		
Total		165	100.0		