

High Level Comparison of Proposed APES 230 (Draft 11 April 29) with APS12 and NZ FAES

The following table lists the main sections of draft APES 230 with the source for each section identified. APS12 and NZ FAES have then been reviewed and corresponding paragraphs and sections identified. Where the approach is inconsistent with APES 230, this is highlighted in the comments column of the table. Any areas of the comparative standards that have not been addressed by draft APES230 are detailed and discussed at the end of the table.

APES230 Section/ Paragraph	APES230 Title	Source	APS12	NZ Financial Advisory Engagements Standard (NZ FAES)	Comments
1	Scope & Application	APESB Pronouncements	1. Scope 2. Purpose	Scope p.1-8, 11,12	
2	Definitions - Acceptable Level - Credit Representative - Australian Credit Licence - Assignment - Client - Code - Employer - Engagement - Firm - Member - Member in Public Practice - Professional Bodies	IESBA definition Defined by reference to the <i>National Consumer Credit Protection Act 2009</i> Defined by reference to <i>National Consumer Credit Protection Act 2009</i> The definitions noted are as per Definitions used in other APESB pronouncements	3. Definitions	Definitions 13	-

APES230 Section/ Paragraph	APES230 Title	Source	APS12	NZ Financial Advisory Engagements Standard (NZ FAES)	Comments
	<ul style="list-style-type: none"> - Professional Fees - Professional Independence - Professional Services - Terms of Engagement 				
	<ul style="list-style-type: none"> - Australian Financial Services (AFS) License - Authorised Representative - Fee for Service - Financial Advisory Service - Representative - Statement of Advice 	Definitions based on existing definitions in APS 12			
	<ul style="list-style-type: none"> - Commission - Fiduciary - Fiduciary Relationship - Financial Advice - Soft Dollar Benefits 	Definitions adopted from NZ FAES			
3	<p>Fundamental Responsibilities of Members</p> <ul style="list-style-type: none"> -Public Interest -Integrity -Objectivity -Professional Competence & Due Care -Confidentiality - Professional Appointments 	Fundamental responsibilities drafted in a manner similar to other APESB pronouncements	<p>The Fundamental Responsibilities are addressed by the following sections:</p> <p>4. The Joint Code of Professional Conduct</p> <p>5. Fundamental Principles</p> <p>6. The Public Interest</p> <p>7. Integrity</p> <p>8. Objectivity</p>	<p>Ethical Requirements p.14</p> <p>Fundamental Principle: Competence -p.28-29.</p> <p>Use of expert p. 73-75</p> <p>Conflicts of interests p.19-23.</p>	<p>APS 12 addresses confidentiality in relation to tax file numbers.</p> <p>The proposed APES 230 does not specifically discuss tax file numbers as the general confidentiality requirements are considered to be sufficient.</p>

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	-Conflicts of Interest -Marketing		10. Confidentiality 11. Technical & Professional Standards 12. Competence & Due Care 13. Ethical Behaviour & Other Matters	Fundamental Principle: Professional Behaviour -p.30 (Confidentiality).	APES305 p5.1(b) states that a Member may decide to send a new engagement letter where there are significant changes in the Terms of Engagement.
4	Fiduciary Responsibilities of Members	NZ FAES p. 9 ,10, A5, and A6.	n/a	Fiduciary Relationship with Client p. 9 ,10, A5, and A6.	-
5	Professional Independence	NZ FAES p.16	9. Independence	Objectivity and Independence p.15, 16, 26 and 27. p.24-25 Independence- conditions for independent financial advice	NZ FAES prohibits advice provided in favour of financial products or product providers. FAES lists conditions for independent financial advice. APES230 addresses independence however does not provide specific conditions.
6	Professional Engagement and other matters	APESB Pronouncements - NZ p.45-58	15. Terms of Engagement	-	Consultation paper has suggested the proposed standard consider different types of financial advisory service engagements.
7	Engagement	-	-	Engagement	NZ FAES provides

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	Performance			Performance p.58-70.	specific steps to be taken in conducting the engagement. The proposed APES 230 takes a principles based approach.
	Basis for the financial advice	NZ FAES p58-60, 78- 80 and APS 12.	p12.3	Finalising the advice - basis for advice p.78-82	NZ FAES details steps to take when finalizing advice to be given to client. NZ FAES p.82 discusses the need for changing advice in an ongoing relationship. APS 12 requires clear, concise and effective explanations of the reasoning which led to the advice and the appropriateness of recommendations.
	Use of Assumptions	NZ FAES p. 66 – 67 and APS 12.	p12.4	Use of assumptions to develop advice p.66 - 67	APS 12 requires the Member to make all reasonable enquiries in relation to the client's particular circumstances.
	Estimates, forecasts & projections	Other APES Standards , APS 12 and NZ FAES.	16. Estimates and Projections	Estimates and Projections p.76 -77.	
	Incorrect or misleading	Other APES Standards ,	14. Incorrect &	Incorrect or misleading	APS12 discusses AFS

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	information	APS 12 and NZ FAES.	Misleading Information	information p. 71–72	Licensees obligations under the Financial Transaction Reports Act. This has not been included in the proposed APES230.
	Communicating the financial advice	NZ FAES and APS 12.	12.2 to 12.4.	Communication of advice p.85-87	
8	Client Information, Client Monies and Other Client Property	NZ FAES p.37- 39.	n/a	Financial involvement with clients p.17-18. Client information, client monies and other client property p.37-39.	
9	Professional Fees	NZ FAES and APS 12.	17. Remuneration 18. Determining Fees 20. Disclosure & Reporting Fees	Professional Fees and Commissions p.31- 35. Disclosure of Commission Earned or Received for Providing Advice to Clients p.88-89.	The proposed APES 230 requirements on fees are stricter than NZ FAES and APS12. “should adopt fee for service” contained in APS12 changed to mandatory “shall” consistent with the recommendations of the consultation paper and principles approved by the Board at its March 2010 meeting.

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10	Non-Cash Alternative Remuneration	APS 12.	21. Non-Cash Alternative Remuneration	-	APES230 mandates against receipt of alternative remuneration benefits. In contrast APS 12 required avoidance. Wording stronger. APS12 includes a list of soft-dollar benefits in a guidance paragraph.
11	Documentation & Quality Control	APES adapted and NZ FAES p83 & 84 adapted	n/a	Documentation p.83- 84	The proposed APES230 takes a principles based approach. Note that consideration should be given to the inclusion of a section that deals with the implementation of recommendations. Documentation is required by the proposed APES230. However, the proposed standard does not address document retention requirements. FPA specifies 7 years.
	<i>Conformity with</i>	-	n/a	-	

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	<i>International Pronouncements</i>				
	<i>Appendix One - Sample Fee Disclosure</i>	APS12	Appendix One – Sample Fee Disclosure	-	
	<i>Appendix Two - Alternative Remuneration Schedule</i>	APS12	Appendix Three – Alternative Remuneration Schedule	-	
-	-	-	22. Notification	-	Requirements in relation to compliance and enforcement of standards. Considered a matter for the Professional Bodies to articulate.
-	-	-	25. Transitional Arrangements	-	Refer recent government announcements.
-	-	-	Appendix Two – Sample Terms of Engagement Letter	-	Terms of Engagement adequately addressed by reference to APES 305.
-	-	-	-	Quality Control p.36.	APES230 makes reference to the need to comply with APES 320 <i>Quality Control for Firms</i> in p11.1.
-	-	-	-	Acceptance and Continuance of Client Relationships and Specific Engagements	Addressed by the requirements to comply with the Code (s210 <i>Professional</i>

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				p. 40-57.	<i>Appointment</i>), comply with APES305 Terms of Engagement.
-	-	-	-	Ongoing advice p.90	See comments on “Finalising the advice – basis for advice p.78-82” above.
-	-	-	-	Implementation of advice p. 91-94	NZ FAES discusses requirements in relation to the actual implementation of advice. It also addresses situations where the client may give specific instructions to the advisor. Consider including implementation advice in the proposed APES230.
-	-	-	-	Appendix 1 – Examples to illustrate application of the standard.	Lists specific situations where the standard will apply, will not apply and may apply.
-	-	-	-	Appendix 2 - Examples of Legislation that may Affect Financial Advisers	Lists specific legislation.