

# ETHICS & STANDARDS MODULE

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# BEFORE WE BEGIN

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## REFLECTION

Before we begin this module take a moment to think about this statement from [Ries \(2018\)](#):

*Lawyers' ethical obligations require that they understand risk factors for and warning signs of abuse, are able to ask appropriate questions to probe for these issues, can advise older clients on preventive strategies to protect themselves from abuse, and can provide clients with information and supports to make decisions based on their interests and values.*

Ries goes on to suggest, “In their professional practice, lawyers will come into contact with older clients who are at risk for or experiencing abuse and exploitation. These situations may be more or less obvious and lawyers need to be equipped with the knowledge and skills to ask and act in ways that ensure they provide ethically responsible services to their older clients.”

**Reflect on your contact with older persons as clients and your current knowledge and skills about financial abuse...**

# OVERVIEW

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## ETHICS & STANDARDS

**This is the only module within the ethics and standards component of the training program.**

This module includes information on ethical frameworks for accountants, financial advisers and financial counsellors that are relevant to the issue of financial abuse.

This module includes information on how the training program's desired outcomes are informed by, and relate to, the specific ethics and standards frameworks for accountants, financial advisers and financial counsellors.

This module also considers advisers' ethical obligations to engage in continuing professional development (CPD).

# RELEVANT ETHICAL VALUES & STANDARDS

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Relevant ethical values and standards **vary** depending on industry, professional and organisational context.

The **nature and scope** of ethical values, principles and standards differs depending on occupation, professional membership, training or affiliation and the regulatory environment and a combination of these factors.

For participants, ethical values and standards will be located in one of the following (or similar) frameworks:

- [Accounting Professional and Ethical Standards](#) (APES)
- [Financial Adviser Standards and Ethics Authority](#) (FASEA)
- [Financial Counselling Australia](#) and [Financial Counsellor's Association of Queensland](#) (FCAQ)

For advisers who are not within an established ethical or standards framework, there may be other guiding statements such as codes of conduct or best practices that should be observed.

# INDUSTRY EXAMPLE

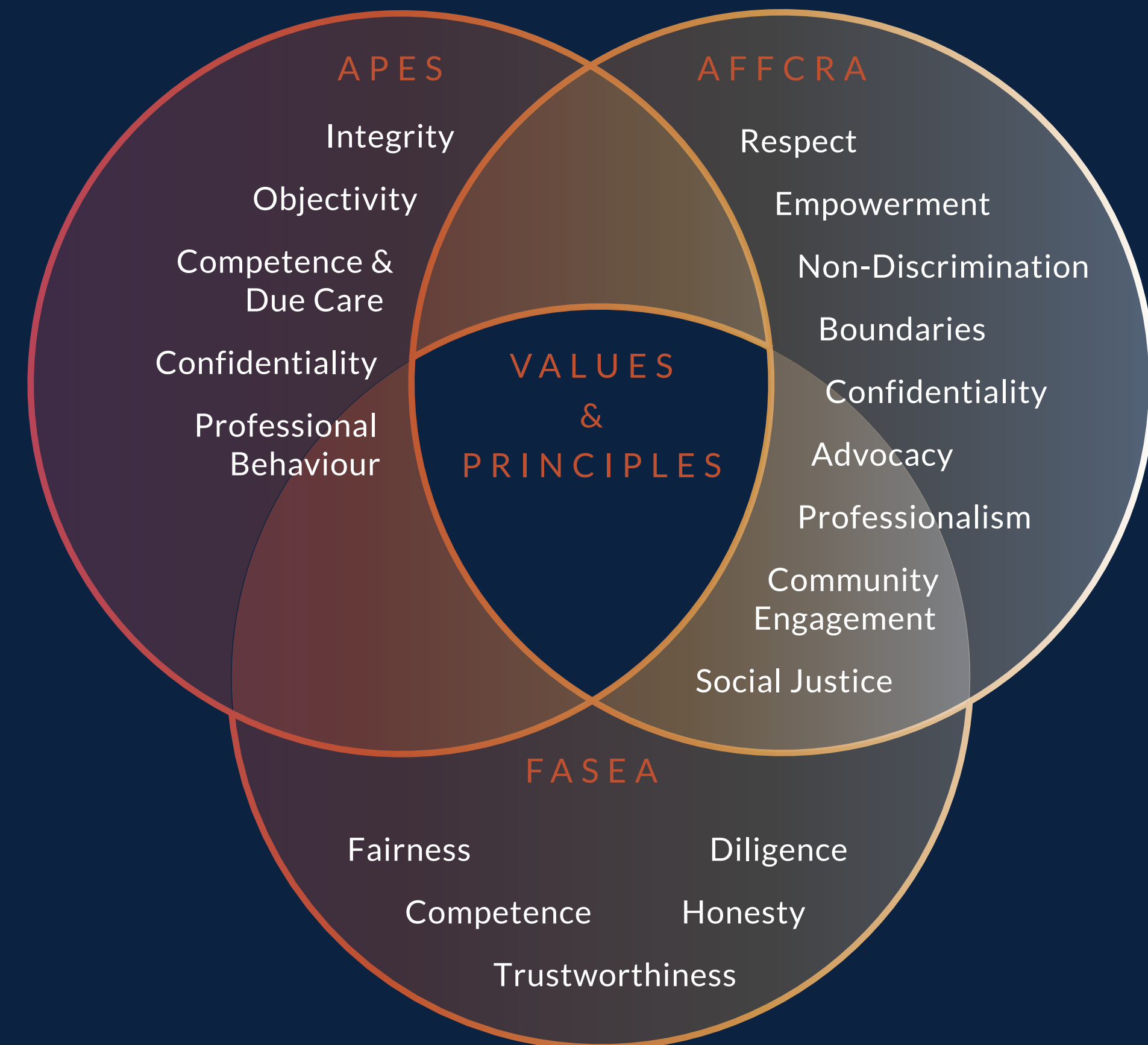
## ETHICS

Consider the core values of each of the ethical frameworks.

**Think** about:

- How do they compare?
- How do they relate to dealing with older persons?
- How do they relate to the issue of elder abuse and financial abuse?

## ETHICAL VALUES OF ACCOUNTANTS (APES), RELEVANT PROVIDERS (FASEA) & FINANCIAL COUNCELLORS (AFFCRA)



# INDUSTRY EXAMPLE

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## FASEA STANDARDS

The training program is **not a substitute** for industry training around specific ethical standards and frameworks. It seeks to **complement** ongoing CPD undertaken by advisers.

**Specific standards** such as [Financial Planners and Advisers Code of Ethics 2019](#) contain more detailed individual standards that correlate to aspects of this training program.

Wherever possible references to industry standards have been included to allow further, deeper self-directed learning.

## EXAMPLE: Client Capacity

- **FASEA** standards 4 (Client Care) and 7-9 (Quality Process)
- **APES** 305 (Terms of Engagement) and
- **FCAQ** Code of Practice 2.3 (Informed Consent)

All carry an obligation to assess capacity and competence of a client's instructions.

# CONTINUING PROFESSIONAL DEVELOPMENT

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The training program is based in continuing professional development (CPD) (aka continuing professional education) which in itself reflects core ethical values and professional commitment.

The training program is a means of fulfilling those ethical values by assisting advisers to satisfy CPD requirements and build knowledge and skills against the backdrop of ethics.

While all advisers have their own set of standards, and descriptions of those standards vary, all have central requirements for CPD that reflect the need to engage in ongoing learning around:



**KNOWLEDGE**  
(including technical  
knowledge)



**SKILLS**



**ETHICS &  
STANDARDS**

# INDUSTRY EXAMPLE

ALIGNMENT WITH CORPORATIONS (RELEVANT PROVIDERS CONTINUING PROFESSIONAL DEVELOPMENT STANDARD) DETERMINATION 2018

ALIGNMENT OF CPD CATEGORIES	
FASEA CPD CATEGORY	TRAINING PROGRAM AREA
<i>Technical competence</i> Acting as a technically proficient professional	Knowledge
<i>Client care and practice</i> Acting as a client centric practitioner	Skills
<i>Regulatory compliance and consumer protection</i> Acting as a legally compliant practitioner	Standards
<i>Professionalism and Ethics</i> Acting as an ethical professional	Ethics



# OUTCOMES AND COMPETENCIES

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For advisers, understanding what financial abuse is, and how it occurs in their occupational or professional practice and environment is key to the training. The competencies in the training program are described in a colloquial manner:

## STOP

being a part of the problem

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Understanding industry specific risks and vulnerabilities that must be avoided because they lead to or cause financial abuse.

**Example:** avoiding involvement that causes or is complicit in financial abuse

## INDUSTRY EXAMPLES

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that identify relevant industry guidelines, best practice approaches, peer observations, professional approaches and applied learning

## START

being a part of the solution

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Understanding financial abuse, including how to recognise it, how to prevent it from happening and how to respond if it is already happening

**Example:** recognising & recommending strategies to prevent financial abuse

# INDUSTRY EXAMPLE


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## CPA AUSTRALIA

### *Ethical accountability*

*The accounting profession requires that its members act ethically and professionally in the best interests of their clients – all members have a duty of care. Additionally accountants, like all responsible members of society, should have a social and moral conscience which sees any mistreatment of older people – financial or otherwise – as being unacceptable and possibly illegal.*

*CPA Australia recognises that the duty of care that the accountant owes to the client is such that in the face of a suspected case of financial abuse, the accountant should not simply turn a blind eye and ought to do everything that can reasonably be done to prevent or detect instances. It is the correct thing to do in accordance with the profession's statements on ethics and social responsibility.*



The CPA Australia locates the issue of elder abuse within an **ethical context** for its members.

*The accountant has the professional and ethical training. An accountant is likely to be in a position to both notice and understand the implications of actions that could lead to elder financial abuse. Elsewhere in this toolkit the various forms of financial abuse are discussed and it is apparent from the recognition of the forms it may take, that a client who is otherwise quite in control of their faculties may be blind to the potential abuse because of:*

- the people involved (trusted friends or family)
- the complexity of the matter
- I leave all that to my accountant.

*While there is no consideration that the accountant should be burdened with total responsibility, their professional competence does inevitably mean that they face a degree of accountability if no attempt is made to deal with the concerns involved.*



For members of  
the CPA Australia  
ethical standards  
**raise expectations.**

# INDUSTRY EXAMPLE

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## GOOD INDUSTRY PRACTICE

The [Australian Financial Complaints Authority](#) (AFCA) (Formerly FOS) has described what it considers [good industry practice](#) when faced with financial abuse. This **policy** includes a **three-step approach**:

1. Were there warning signs known as 'red flags' which may have been indicators of financial abuse of a vulnerable elderly person?
2. Did the FSP exercise its duty to take reasonable care & skill and question the customer's authorisation of a transaction?
3. If so, should the FSP have delayed the transaction or taken other preventative action?

AFCA's approach **implies knowledge, skill and ethical practice**. Their view is that the client relationship imputes a need to be aware of financial abuse as a consequence of contractual obligations and good industry practice.

**Examples** of determinations made by AFCA about financial abuse are used throughout the modules. They highlight how advisers can follow good industry practice and work to prevent financial abuse.

# BEFORE WE LEAVE

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## REFLECTION

**Think** about and **locate your own** relevant professional ethics and standards and re-familiarise yourself with those standards, thinking about how they relate to financial abuse.

**Think** about the following issues:

- Do those ethics and standards mention elder abuse or financial abuse?
- Do those ethics and standards impose obligations or expectations about recognising and acting in cases of financial abuse?
- Do those ethics and standards also reflect external obligations, for example statutory requirements under legislation such as Corporations, Credit and Consumer Laws?
- Are there examples of where ethical disciplinary processes might apply in cases of financial abuse because a professional failed to do certain things?
- Are there examples of civil liability that might flow in cases of financial abuse because a professional failed to do certain things?
- Are there examples of good industry practice that align with expectations or obligations around financial abuse?