



Financial adviser education standards

Consultation paper

August 2022

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Consultation Process

Request for feedback and comments

Submissions in response to this paper should be provided by 5pm on 16 September 2022, electronically or by post. While submissions may be lodged electronically or by post, electronic lodgement via email to FinancialAdvice@treasury.gov.au is preferred. For accessibility reasons, please submit responses sent via email in a Word or PDF format.

All information (including name and address details) contained in submissions may be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails are not sufficient for this purpose. If you would like only part of your submission to remain confidential, please provide this information clearly marked as such in a separate attachment.

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Closing date for submissions: 16 September 2022

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The principles outlined in this paper have not received Government approval and are not yet law. As a consequence, this paper is merely a guide as to how the principles might operate.

Financial adviser education requirements

Summary

The Government understands the importance of high-quality, affordable, and accessible financial advice for Australians. Appropriate education standards for financial advisers are central to achieving this goal. As Commissioner Hayne noted in the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, ‘prevention of poor advice begins with education and training’.¹ The Government is committed to ensuring that education standards are fit for purpose.

This consultation paper is an opportunity to revisit the education requirements for existing advisers, specifically those who have significant on-the-job experience. In particular, it is an opportunity to explore how the Government’s election commitment to remove tertiary education requirements for financial advisers who have passed the exam, have 10 years’ experience and a clean record of financial practice could be implemented. This paper also presents an opportunity to explore the requirements for new entrants to ensure that they remain appropriate and continue to facilitate improvements in the quality of financial advice. The Government understands the importance of removing barriers to entry into the financial advice profession and ensuring it continues to develop into a career of choice.

Without compromising the progress that has been made towards professionalisation, the Government wants to ensure that the standards for financial advisers strike the right balance between valuing formal education and on-the-job experience, whilst continuing to ensure consumer trust and confidence in the advice they receive.

Background – financial adviser education standards

One of the defining features of a profession is that members share a common body of knowledge, skills, and expertise in a specialised field. Education requirements or prerequisites are one mechanism for ensuring that all members of a profession have competency in that field. These requirements ensure that, because of their education, professionals are versed in the body of knowledge, skills, and expertise common to their profession.

Importantly, professionalisation of the industry is also about ensuring consumer protection. As noted by Commissioner Hayne, ‘making financial advice a profession is important not merely for its own sake. It is a necessary step to protect those who seek financial advice.’² Education requirements ensure that members of a profession meet certain standards of competency and operate within specific ethical frameworks. If financial advisers are to continue to professionalise, the education standards required should be sufficient for them to develop the knowledge, skills and competencies required to provide high-quality financial advice. Prior to the current standard, the education and

¹ *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* (Financial Services Royal Commission), Final Report vol 1. 171.

² Financial Services Royal Commission, Final Report vol 1. 135.

training of advisers was contingent upon licensee obligation 912A in *the Corporations Act 2001* (Corporations Act). The Australian Securities and Investments Commission (ASIC) provided guidance for the minimum education standards for financial advisers in *Regulatory Guide 146: Licencing: Training of Financial Product Advisers* (RG 146). RG 146 required:

- Australian Qualifications Framework (AQF) level 5 (diploma level) courses;
- Specialist knowledge about the specific products on which an adviser provides advice, and their markets; and
- Generic knowledge requirements, including training on the economic environment, the operation of financial markets and financial products.

Evidence provided to the *2014 Parliamentary Joint Committee inquiry into proposals to lift the professional, ethical and education standards in the financial services industry* (PJC Inquiry) indicated that the previous education requirements set under RG 146 did not deliver appropriate standards. ASIC's evidence to the PJC Inquiry outlined that there were numerous and fragmented approaches to interpreting and implementing the requirements in RG 146, and that training courses varied significantly in terms of content and quality.³ During public hearings, the Professional Standards Councils informed the Committee that the introduction of RG 146 had prompted a proliferation of education providers and a 'massive flight to the bottom'.⁴ The Professional Services Councils contended that it was not individuals responsible for the increase in 'cheap and fast' qualifications, but instead was driven by the 'employing structures of the industry'.⁵ In response to evidence provided, the PJC Inquiry recommended that at a minimum financial advisers hold a degree qualification at AQF level 7 (bachelor degree level), complete a structured professional year, pass an exam, and comply with ongoing professional development requirements.

Concerns about the sufficiency of RG 146 were also echoed in the Explanatory Memorandum to the *Corporations Amendment (Professional Standards of Financial Advisers) Bill 2016* (Explanatory Memorandum), which introduced the current education standards:

*Concerns have been raised that the current standards in RG 146 are not commensurate with the level required to ensure appropriate technical and professional competence. Further, in some instances, the existing minimum education and training standards have not been applied consistently across the industry, and the rigour and quality of some training courses is questionable.*⁶

3 Parliamentary Joint Committee on Corporations and Financial Services, *Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry*, (2014) [3.10-3.11].

4 Parliamentary Joint Committee on Corporations and Financial Services, *Official Committee Hansard: Professional standards in the financial services industry*, 14 October 2014. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22committees/commjnt/be77246b-9acc-4c9c-bfc5-ff98fc74015c/0011%22>

5 Parliamentary Joint Committee on Corporations and Financial Services, *Official Committee Hansard: Professional standards in the financial services industry*.

6 Explanatory Memorandum, *Corporations Amendment (Professional Standards of Financial Advisers) Bill 2017* [1.8].

The current education requirements for financial advisers depend on whether an adviser is subject to the transitional arrangements for existing advisers or is a new entrant to the profession.

Existing advisers

The relevant legislation and regulations provide transitional arrangements for 'existing providers' as defined in the law. To be recognised as an existing provider, a financial adviser must have been authorised to provide personal advice on relevant financial products between 1 January 2016 and 1 January 2019. In general, this will mean that the adviser was listed on the Financial Advisers Register (FAR) at any time between 1 January 2016 and 1 January 2019. Advisers must also not have been banned, disqualified, or subject of a court enforceable undertaking as of 1 January 2019 to be considered an existing provider. In this paper, the term 'existing adviser' is used instead of 'existing provider'.

Existing advisers are currently required to comply with the following education requirements to continue providing personal financial advice:

- hold, at most, an approved eight-unit graduate diploma by 1 January 2026;⁷
- pass the Financial Adviser Exam (exam) by 30 September 2022, if eligible for the extension, otherwise by 31 December 2021; and
- undertake 40 hours of continuing professional development (CPD) per year.

As stated in the Explanatory Memorandum, these provisions were designed to allow flexibility for existing advisers and to ensure they 'undertake adequate study to bring their qualifications in line with the new standard'.⁸

Existing advisers were required to pass the financial adviser exam by 31 December 2021, but some advisers, eligible for an extension, have until 30 September 2022. From 1 October 2022 all active existing advisers will have passed the exam. Accordingly, this paper does not propose any changes to the exam in relation to existing advisers.

Financial advisers are required to complete 40 hours of CPD annually. The Financial Adviser Standards and Ethics Authority (FASEA), the previous standards-setting body for financial advisers, determined that the 40 hours of CPD must include 5 hours spent addressing technical competence, client care and practices, regulatory compliance and consumer protection respectively, and 9 hours on professionalism and ethics. The requirement to undertake 40 hours of CPD per annum supports the continued professionalisation of the industry. As noted by the PJC Inquiry, CPD requirements were

⁷ Note: Existing advisers who do not pass the exam by the relevant exam cut-off date and who are a relevant provider immediately before the relevant exam cut-off date will also need to meet the degree requirement and complete the professional year before they can be re-authorised to provide personal advice.

⁸ Explanatory Memorandum, *Corporations Amendment (Professional Standards of Financial Advisers) Bill 2017* [6.8].

widely supported as they provide, along with supervision and work experience, another systemic defence of consumer outcomes.⁹

New entrants

To enter the financial advice profession a new entrant must:

- hold an approved bachelor's degree (or higher qualification);
- undertake a professional year;
- pass the Financial Adviser exam; and
- undertake 40 hours of CPD per year.¹⁰

These requirements were introduced in response to concerns raised that the previous education standards were insufficient to ensure appropriate technical and professional competence of financial advisers. The education requirements for new entrants largely mirror those imposed on existing advisers, although higher formal tertiary education requirements reflect the relative lack of professional experience new entrants possess compared to existing advisers.

New entrants share with existing advisers the requirement to pass the exam. As outlined above, the requirement to pass the exam allows the community to be satisfied that all financial advisers are competent in the body of knowledge, skills, and expertise common to their profession through a standardised assessment. Due to the exam's important role in ensuring all financial advisers hold the same baseline competency, removal of the exam is not being considered as an option in this paper.

Distinct from existing advisers, new entrants are also required to undertake supervised on-the-job training through the professional year. The professional year is equivalent to one-year full time (1,600 hours). At least 100 of these hours must be structured training. Formalised supervisor requirements are also imposed. The professional year is intended to provide a structured mentoring program that develops and operationalises the competencies gained through completion of the tertiary education requirement and tested in the exam.

⁹ Parliamentary Joint Committee on Corporations and Financial Services, *Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry*, (2014) [3.74].

¹⁰ Note: Compliance with CPD is an ongoing requirement.

Options to amend current standards

Existing advisers

Experienced adviser pathway

There is no pathway for existing advisers that enables them to meet prescribed standards that relies solely on their on-the-job experience. While it is vital that all members of the financial advice profession can display competency in the body of knowledge, skills, and expertise common to the financial advice profession, there is room to acknowledge that some existing advisers have developed that specialised knowledge through significant working experience.

The Government made an election commitment to remove the requirement to undertake any additional formal study to meet the education standards for ‘experienced advisers’ – existing advisers with at least 10 years of full-time equivalent experience in Australia and a clean disciplinary record. Experienced advisers would still need to pass the exam. To implement this commitment, a new pathway could be introduced, in addition to those for existing advisers and new entrants. This consultation paper seeks feedback on the proposed eligibility criteria for this new pathway.

To access this new pathway an existing adviser would have to meet defined eligibility criteria outlined in the table below. Those who did not meet these criteria would continue to be required to meet the current education requirements for existing advisers: at most, an approved eight-unit graduate diploma by 1 January 2026.¹¹

Education pathways

	Existing Advisers	Experienced Advisers	New Entrants
Who they are	Registered on the FAR between 1 January 2016 and 1 January 2019. ¹² Do not meet the experienced advisers’ criteria.	Advisers with 10 years full-time equivalent experience in Australia between 1 January 2004 and 1 January 2019. Holds a clean disciplinary record.	Individuals who are not Existing Advisers or Experienced Advisers.

11 Note: Potential changes to education requirements for new entrants, discussed in the next section of this consultation paper, may also have implications for non-eligible existing adviser education requirements.

12 Note: To be recognised as an existing adviser, a person must, among other requirements, have been authorised to provide personal advice on ‘relevant financial products’ between 1 January 2016 and 1 January 2019. In general, this will mean that the adviser was listed on the FAR at any time in this period – this shorthand criteria has been used in this table.

	Existing Advisers	Experienced Advisers	New Entrants
Education requirements¹³	At most, approved eight-unit graduate diploma (or equivalent) by 1 January 2026.	No tertiary education requirements.	Hold an approved bachelor's degree (or higher qualification). Undertake a professional year.

10 years' experience

To fulfil this requirement, advisers will be required to have had 10 years of full-time equivalent experience in the 15 years between 1 January 2004 and 1 January 2019 in Australia. The 10 years would not have to be consecutive. Ten years of full-time equivalent experience out of a 15-year window allows consideration for time out of the industry and part-time work. The mechanism for an adviser satisfying this requirement is outlined below.

Importantly, the period between 1 January 2004 and 1 January 2019 covers significant historical events, such as the global financial crisis, ensuring eligible experienced advisers have lived experience in volatile economic conditions. Additionally, this ensures that the 10 years' experience is relatively contemporary.

Clean record

To access the experienced pathway, advisers would be required to have a clean disciplinary record. This criterion is intended to act as a quality assurance mechanism to prevent advisers who have demonstrated misconduct from accessing favourable arrangements, thereby protecting the integrity of the financial advice profession and ensuring consumer protection.

It is proposed that a clean record will, at a minimum, require an adviser to have no disciplinary actions recorded against them on the FAR. However, relying solely on the FAR is not appropriate as, prior to 2022, the only disciplinary actions available to ASIC against financial advisers were banning orders and enforceable undertakings, both of which have high conduct thresholds. The FAR reflects a disciplinary system that only targeted the most egregious behaviour and does not capture the full range of misconduct that should preclude someone from eligibility for clean record status.

¹³ Note: This table only refers to tertiary education and professional year requirements, and does not include additional requirements such as passing the financial advisers' exam and CPD.

Capturing other forms of misconduct

Other indicators of adviser misconduct would also be required to ensure the clean record requirement is functioning as intended. It is important that these sources capture misconduct, but not minor or trivial instances of misconduct. Other sources for determining adviser misconduct could include:

- whether an adviser's conduct has resulted in adverse findings being made against their licensees at the Australian Financial Complaints Authority;
- CPD compliance; and
- disciplinary action taken by professional associations against their members.

It is proposed that isolated incidences of minor misconduct would not be sufficient to disqualify an adviser from accessing the experienced pathway. However, multiple instances of minor misconduct over a sustained period should be considered disqualifying misconduct for accessing the experienced pathway.

It is proposed that only those exemplar existing advisers, who have maintained a clean record for their entire career as a financial adviser, as opposed to a set period, should be eligible for this exemption. Not only does this reward judicious advisers, but also helps to ensure that the high standards in the industry are preserved. This approach seeks to maintain the integrity of the experienced pathway, and account for the risk that an adviser with serious misconduct in their past can access this pathway purely because that conduct occurred before an arbitrary point in time.

Other issues

Assessment of eligibility

It is proposed that individuals seeking to access the experienced pathway will self-assess their eligibility through their licensee, taking into account the prescribed criteria and additional guidance that would be provided. If an adviser considers that they have met the eligibility criteria, they will be required to self-declare on an application to access the pathway.

It is not proposed that ASIC will assess applications to determine an adviser's eligibility. Instead, it is proposed that ASIC will audit a sample of applications for compliance with the eligibility criteria. This will not prevent ASIC from deciding to scrutinise a specific application from an adviser where ASIC is aware that an adviser may be ineligible. For example, if the adviser has had disciplinary actions recorded against them on the FAR.

Potential future misconduct

Given the reliance on the clean record criteria to act as a quality assurance mechanism, it may be necessary to introduce new remedies and enforcement tools for regulators to act against advisers whose future actions may amount to misconduct. For example, it may be necessary to create explicit powers for regulators to order an adviser who once accessed the experienced adviser pathway to complete formal education equivalent to the requirements for existing advisers if they were to commit misconduct in the future.



Experienced Pathway closure date

It is proposed that the experience pathway eligibility criteria will only be available until 1 January 2026 to ensure consistency with the existing transitional arrangements for existing advisers.

Questions – experienced pathway

10 years' experience

1. Is the proposed window for determining 10 years' experience (between 1 January 2004 and 1 January 2019) appropriate? If not, what alternative period could be considered?
2. If required (for example, due to an audit of their eligibility), how can advisers prove they have 10 years' full-time equivalent experience?

Clean record

3. Are the proposed sources for determining a clean record appropriate? Why/why not?
4. What other sources could advisers rely on to indicate that they have a clean record?
5. If required, what evidence can advisers rely on to prove they have a clean record?
6. What threshold should be adopted to identify whether conduct is minor, trivial, and isolated?
7. Is the non-time limited clean record requirement appropriate? If not, for what period should an adviser be expected to maintain a clean record to access this pathway?

Assessment of eligibility

8. What should self-declaration of eligibility require? For example, should an adviser have to make a statutory declaration?

Future misconduct

9. Are new tools required to specifically deal with advisers accessing the experienced pathway whose future conduct amounts to misconduct? Why/why not?

Other

10. For existing advisers not eligible for the experienced pathway but who have a foreign qualification at AQF 7 level or above, is it practical and appropriate for education providers or licensees to assess how these qualifications meet the education standard and what additional study may be required, rather than the Minister? Why/why not?
11. How many existing advisers do you expect to access the experienced pathway? How many of those have already started to undertake formal education to align with the current existing adviser requirements?
12. What else may be required to ensure an appropriate level of consumer protection is maintained and any potential harm is minimised?
13. Would any further requirements be necessary for the experienced pathway to ensure the professionalisation of the industry is maintained?

New Entrants

Formal education and the exam

Getting the educational settings right for new entrants will bolster the ongoing professionalisation of the sector, making it an ‘industry of choice’, and maintaining a sufficient number of advisers to provide high-quality advice to Australians. The education requirements for new entrants must balance flexibility with specificity, ensuring graduates have competency in the knowledge and skills required to be members of the financial advice profession and, importantly, understand their obligations to their clients. Currently, new entrants to the financial advice industry must first complete an approved degree, as listed in the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021* (the Determination). They must then commence a professional year placement and pass the exam prior to commencing quarter three of the professional year.

Approved degrees are currently required to cover the following eleven knowledge areas:

Financial advice principles	Taxation
Ethics and professionalism	Investments
Superannuation and retirement planning	Commercial law
Estate planning	Financial plan construction
Insurance planning and risk management	Financial advice, regulatory and legal obligations
	Behavioural finance, client and consumer behaviour, engagement and decision making

The requirement to enter the industry will remain a bachelor’s degree (AQF 7) or higher. The approved degrees listed in the Determination are qualifications that focus on or specialise in financial planning and financial advice disciplines. Some members of the industry are concerned that the approved degrees are too narrow and do not adequately recognise the needs of the diverse sub-sectors that make up the broad ‘financial advice’ industry, such as stockbrokers. In most cases the prescribed degrees include eight mandatory units which would allow universities to offer students a broad range of electives across other interest areas.

It is worth noting that other professions require their members to study subjects as part of their formal education requirements that they may not use in their professional life. For example, all valid law degrees are required to teach criminal law, despite not all lawyers practising in that area. Therefore, being required to complete a degree with some specified knowledge should not necessarily pose a barrier to entry.

The professional year requires new entrants to complete a full-time year of supervised work, equivalent to 1,600 hours. The professional year is divided into four quarters of work. The first quarter focuses on client observations and supporting an experienced adviser. The second quarter involves supervised client engagement and advice preparation. The third and fourth quarters involve indirect supervision of client engagement and advice preparation. The four key skills areas that the

professional year aims to develop are technical competence, client care and practice, regulatory compliance and consumer protection, and professionalism and ethics.

We welcome your views on the proposed reform below, which represents changes that aim to balance the need for specificity and flexibility in education for new entrants, while ensuring an appropriate minimum standard of knowledge.

Outline of proposed reform

1. **Streamline core knowledge areas** from the current 11 to a proposed 5.
2. **Allow education providers to self-declare** that the degree they are offering teaches the core knowledge areas.
3. **Streamline the professional year** by introducing more flexibility in how candidates are able to complete it, including the point at which they have to pass the exam.

Streamline core knowledge areas

Under this approach the core knowledge areas in an approved degree would be reduced from the current 11 core knowledge areas to 5. It is intended that through reducing the core knowledge areas that a broader range of degrees become eligible as entry pathways to the financial advice profession.


The proposed new core knowledge areas comprise:

- Taxation law
- Commercial law
- Financial advice regulatory and legal obligations
- Ethics and professionalism
- Behavioural finance and client engagement

The streamlining of the core knowledge areas ensures that all financial advisers share a common foundation of knowledge and learning outcomes that will be applicable in a range of financial service industry roles. This is not to say that those core knowledge areas that have been removed are not relevant to the financial advice profession, rather this emphasises that not all core knowledge areas will be relevant for every financial adviser, and it may be more appropriate for potential financial advisers to choose those knowledge areas as electives or to develop those core knowledge areas 'on-the-job' during their professional year. We expect that the core knowledge areas and learning outcomes would for the most part mirror the existing learning outcomes.

Education providers to self-declare that their courses teach the core knowledge areas

The law would be amended so that rather than requiring degrees to be approved, education providers would provide a declaration that their course is teaching the core knowledge areas. This declaration



would require the education provider to give assurance to Government that their course is teaching the core knowledge areas, including identifying which subjects cover which knowledge areas. Higher education providers would have the flexibility to cover the knowledge areas in individual courses or split them across multiple courses.

Degrees provided by education providers that have made this declaration would be listed publicly to ensure that prospective students have clarity that the degree, if completed, would satisfy the education requirements for the financial advice profession.

The intention of this approach is to remove the current process of education providers seeking approval of the degrees they offer, which is time-consuming, highly prescriptive and does not eliminate risks of graduates not meeting the education requirements for technical reasons.

Additionally, it is intended that adopting an education provider self-declaration process would facilitate a wider range of degrees being available as entry pathways to the financial advice profession, and when combined with a streamlined core knowledge area, encourage education providers to offer financial advice degrees with a broad range of subjects.

Questions – Formal education and exam

1. Are the proposed core knowledge areas appropriate for the financial advice profession? If not, what is missing and why is that area important?
2. Are there any specific areas under each core knowledge area that should be prioritised or emphasised? For example, a particular element of taxation or commercial law?
3. Would proposed changes to core knowledge areas necessitate changes to the exam content? Why/why not?
4. Is it practical and appropriate to allow education providers to self-declare that their degrees teach the core knowledge areas? Why/why not?
5. What form should education providers' assurance to Government take?
6. If self-declaration is not appropriate, what alternatives could be adopted to streamline the degree approval process?
7. Is it practical and appropriate for education providers or licensees to evaluate a new entrants' completed tertiary courses against the new core knowledge areas to assess whether they have met the education standard or what additional study may be required? Why/why not? What oversight of education providers or licensees making this assessment, if any, is necessary?
8. Is it practical and appropriate for education providers or licensees to also evaluate foreign qualifications against the new core knowledge areas and assess what additional study may be required, rather than the Minister? Why/why not?
9. Should new entrants whose existing qualifications don't fully meet the education standard be able to 'top-up' their qualification by completing individual units, rather than a full qualification? Why/why not?
10. What other changes should be made to the education requirements for new entrants? How do your proposed changes support the professionalisation of the financial advice industry and ensure consumer protection?

The professional year

It is important that education requirements promote financial advice as an ‘industry of choice’ for graduates and do not disincentivise new entries.

Industry has raised concerns that the professional year is administratively burdensome, acting as a barrier to taking on new advisers thereby restricting the growth of the profession. This paper presents an opportunity to examine the professional year and its impact on the recruitment of new financial advisers.

The purpose of the professional year is to ensure that new entrants have a structured mentoring program that develops and operationalises the competencies gained through the completion of tertiary education and tested in the exam. It recognises that developing technical knowledge through the completion of a tertiary qualification will not necessarily give a graduate all the skills necessary to apply that knowledge to real world situations. It also recognises the vital role that supervision plays in protecting consumers from inexperienced advisors. Other professions have similar supervision requirements. Lawyers, for example are required to complete 18–24 months of supervised practice (depending on the jurisdiction) before they can practise unsupervised.

To ensure the professional year remains fit-for-purpose, while addressing the concerns raised by industry, there remains scope to explore whether the professional year settings require amending. The following changes could be adopted:

- Allow the exam to be sat at any time, rather than just in the professional year. The intention of this change is to allow potential financial advisers to undertake the exam at any point in their education journey, and not unduly hold up the completion of a professional year.
- Integrate elements of the professional year into tertiary study. For example, require education providers to deliver subjects that contain work experience components or require several hours of practical experience to complete a degree. The intention of this change would be to streamline the transition between education and work.
- Introduce a principles-based approach that focuses on the core knowledge areas and remove or reduce the more prescriptive elements of the professional year. This approach would place greater reliance on supervisors and licensees to ensure the professional year they offer aligns with the principles.

Questions – professional year

11. How else could the professional year be amended to ensure it remains fit for purpose, ensuring appropriate supervision of graduate financial advisers without creating unnecessary barriers to entry?
12. In what ways do the professional year requirements create a barrier to entering the financial advice profession?
13. What are the risks and benefits of the possible amendments?
14. Will allowing integration of the professional year with tertiary study streamline the transition between education and work? Why/why not?
15. If the professional year is integrated into tertiary study, how many professional year work hours should be completed as part of a degree?
16. What role does industry play in encouraging new entrants into the industry?
17. Should the exam format be changed for new entrants? If so, how?