



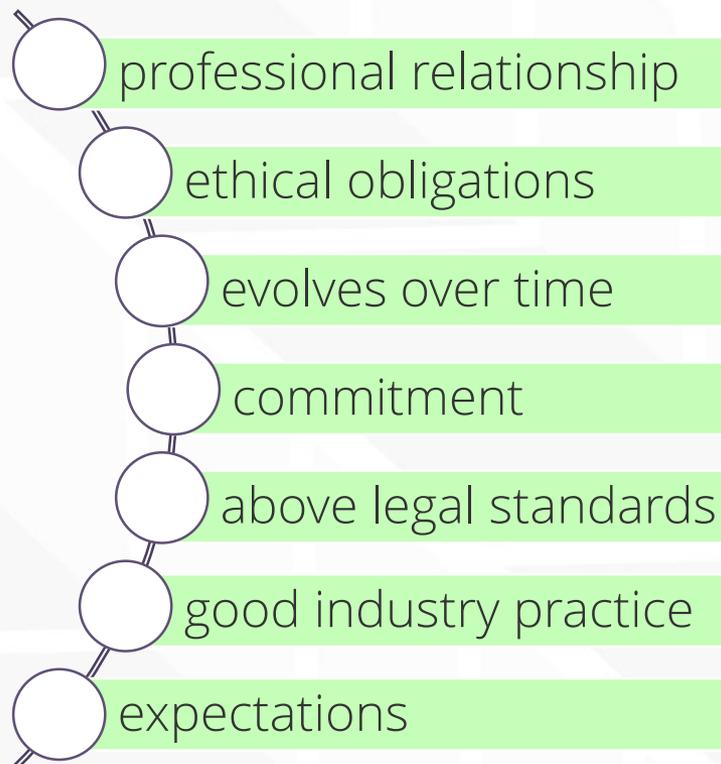
# Customer Owned Banking Code of Practice COBA Compliance Forums 2016

Sally Davis, General Manager,  
FOS Code Compliance & Monitoring

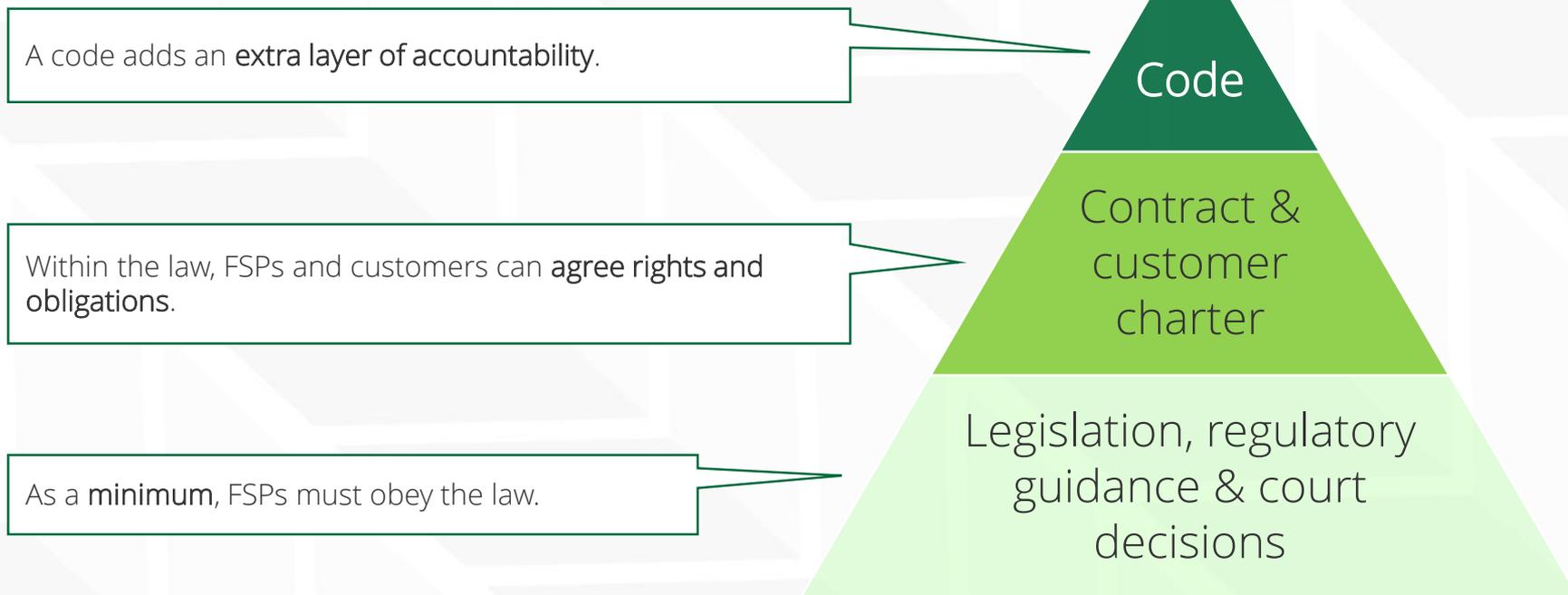
April 2016

# What is a Code of Practice?

- ▶ a **set of promises** by a profession towards its customers
- ▶ gives customers confidence that the members will **do the right thing**



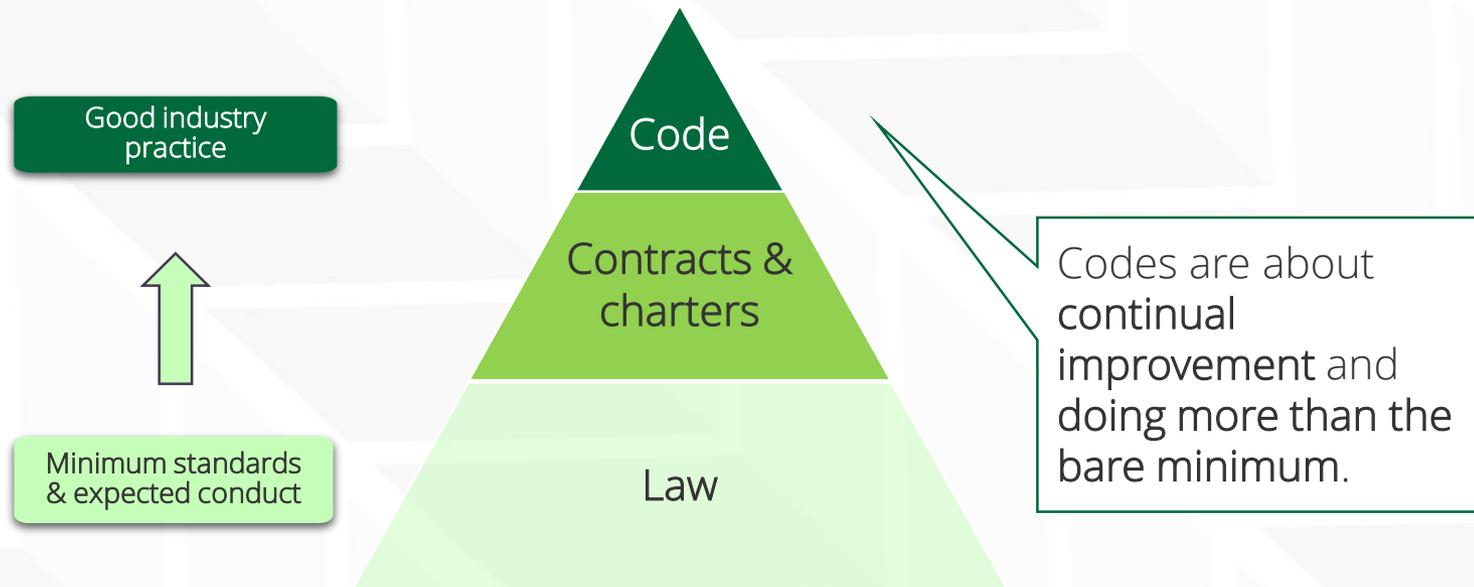
# How does Code fit in?



Each of the Codes FOS administers are **voluntary** – part of a **self-regulatory consumer protection framework**.

# Code = good industry practice

- ▶ FOS did not write the Codes – each Code was **developed by the relevant industry**.
- ▶ Codes are **voluntary**, so FSPs decide whether to adopt a Code.
- ▶ By adopting a Code, an FSP agrees to **comply** with the standards and have its performance **monitored**.



# Customer Owned Banking Code of Practice

revised Code  
effective 1  
January 2014

76 Code  
subscribers

standards of  
good practice  
when dealing  
with potential or  
existing  
customers

applies to  
banking services  
delivered to  
individual or  
small business



# Code obligations

- ▶ Some obligations are very general, such as the obligation to be **responsible and prudent managers** and act **fairly and consistently** with good banking and financial service industry practice. Whether an FSP has met this standard will usually depend on the individual circumstances of the case.
- ▶ Other Code obligations are **prescriptive**, for example, an FSP must reply to a client's complaint within 21 days. Such standards can be **'tools' for customers** because they require specific actions.
- ▶ Some obligations are mirrored by regulators or in legislation like privacy laws and ASIC's Regulatory Guide on IDR obligations.

# The key promises

1. Be fair and ethical
2. Focus on your customers
3. Give clear information about products and services
4. Be a responsible lender
5. Deliver high customer service and standards
6. Deal fairly with any complaints
7. Recognise your customers' rights as owners
8. Comply with your legal and industry obligations
9. Recognise your impact on the wider community
10. Support and promote the Customer Owned Banking Code of Practice

## FOS Constitution 2.1(e)(e)

*The objects of the Company are to .... promote and advance the industry's dispute resolution procedures and standards, including by monitoring compliance with Industry Codes of Practice.*



Shane Tregillis  
Chief Ombudsman

FOS provides very specialised services in dispute resolution, systemic issues management and **code monitoring**.

Industry codes:

- enhance the relationship of trust between consumers and providers
- potentially play an important role in the initial product design stage and within the whole lifecycle of a financial product.

- FOS submission to the Financial System Inquiry - April 2014

# Difference between EDR and Code

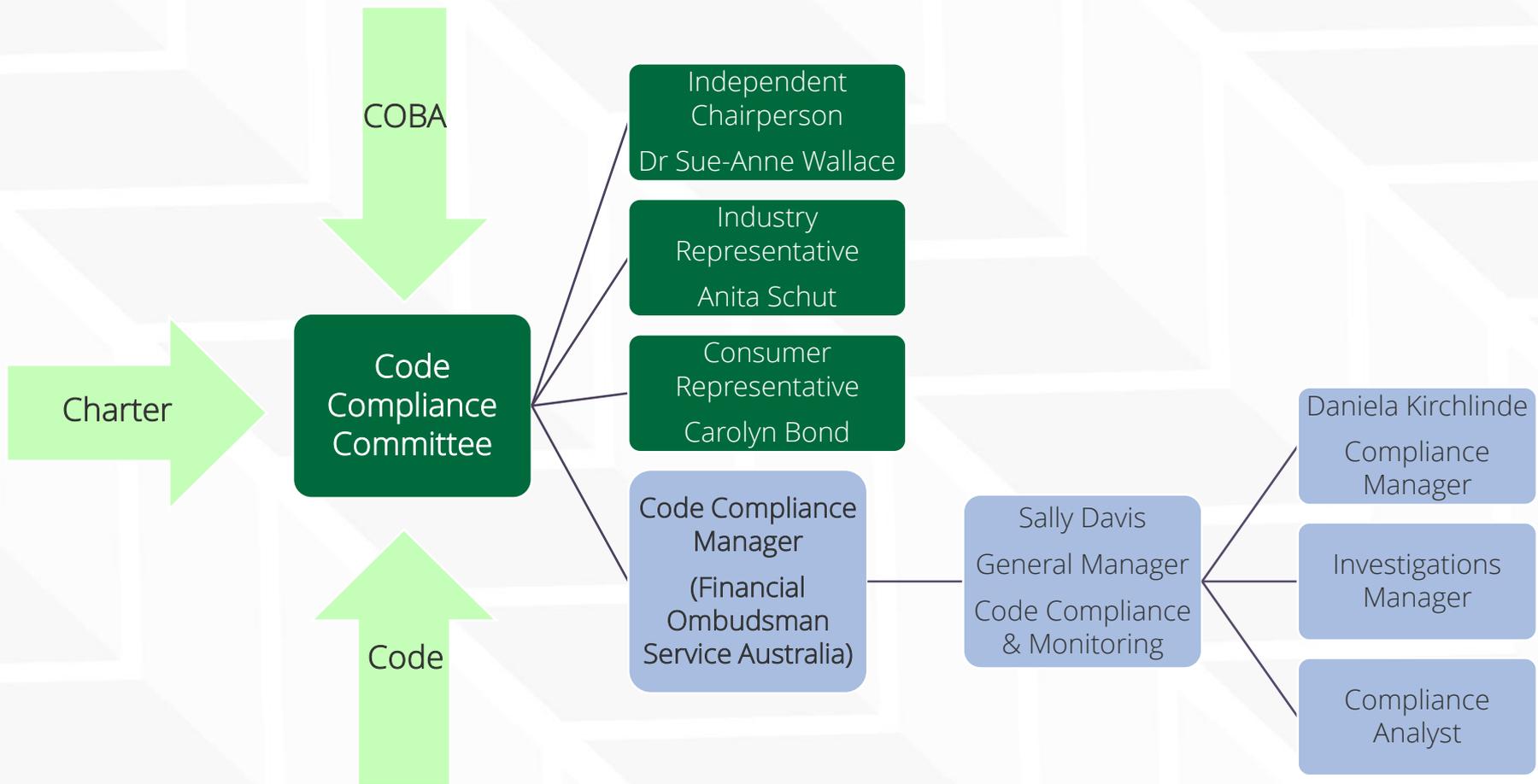
## EDR

- investigates complaints
- resolves disputes
- monetary compensation
- individual provider
- individual customer

## Code Monitoring

- undertakes inquiries
- monitors compliance
- no monetary compensation
- corrective actions
- across the industry
- complaint not needed

# Governance structure



# Complaints and breaches

2011/12

210 FOS EDR complaints  
10,401 self-reported IDR complaints  
*364 self-reported Code breaches*

2012/13

245 FOS EDR complaints  
14,393 self-reported IDR complaints  
*917 self-reported Code breaches (incl. 16 significant Code breaches)*

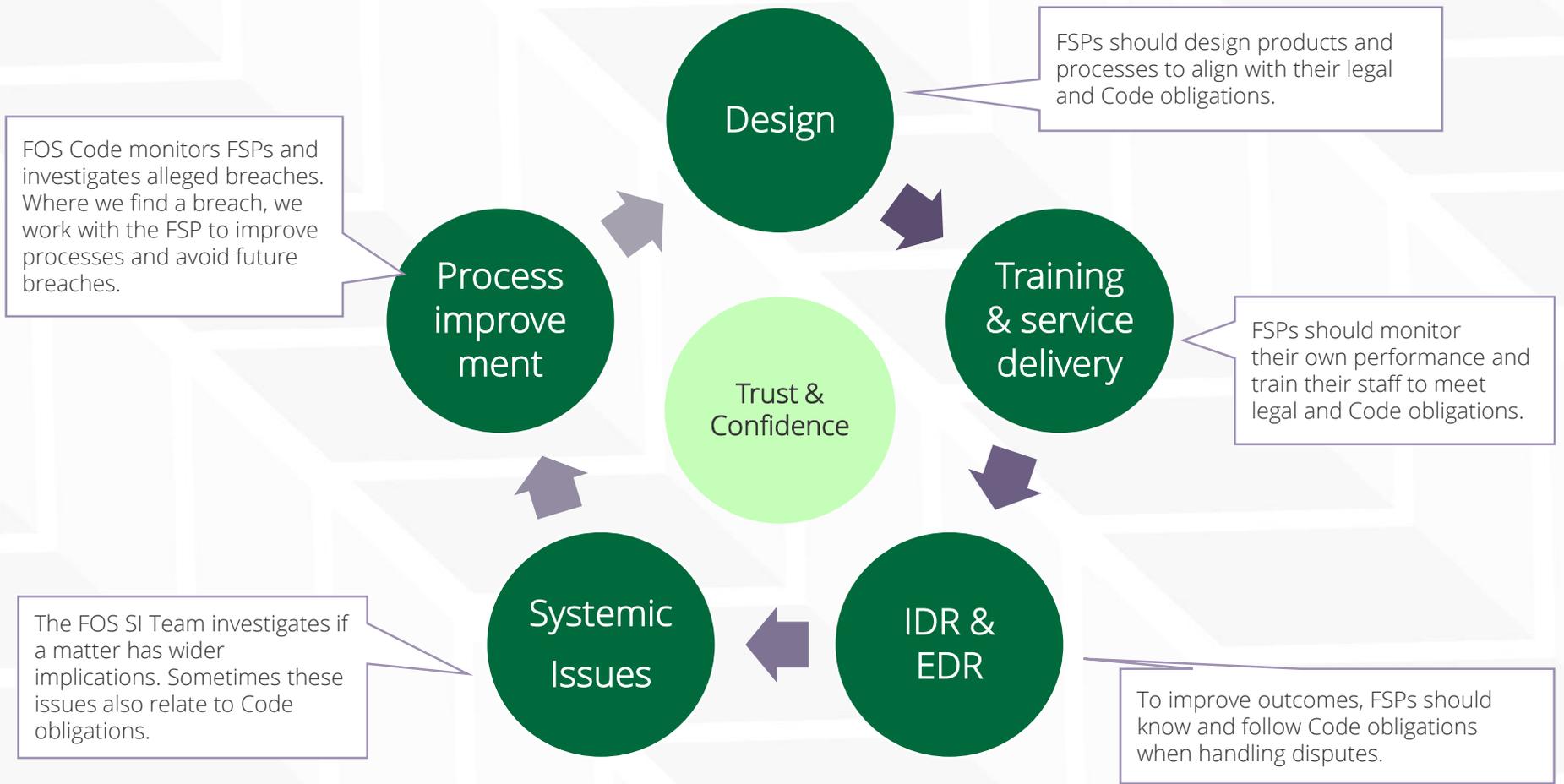
2013/14

330 FOS EDR complaints  
12,409 self-reported IDR complaints  
*800 self-reported Code breaches (incl. 6 significant Code breaches)*

2014/15

297 FOS EDR complaints  
16,709 self-reported IDR complaints  
*646 self-reported Code breaches (incl. 5 significant Code breaches)*

# Code of Practice in practice



# Burden or benefit?



# Committee's compliance work 2016-17

April 2016

- Own Motion Inquiry 'Community Engagement' Online survey: Part C Key Promise 9 of Code to effectively engage with wider community

July 2016

- Annual Compliance Statement Online self reporting of Code breaches and complaints for the period July 2015 to June 2016. Due 31 August 2016

November  
2016

- Annual Compliance Statement Verification Program
- Telephone conferences/visits with a selection of Code Subscribers

December  
2016

- Customer Owned Banking Code Compliance Committee Annual Report

March 2017

- Own Motion Inquiry. Online survey into an area of emerging risk (eg. Code as positive marketing tool, inquiry into advertising standards)

Ongoing

- Accomplish (published quarterly, anybody can subscribe)
- Code breach investigations
- Liaison with stakeholders (COBA, ASIC, Consumer Advocates, Industry groups)

# Where do I find guidance?

Check out our updated website [www.cobccc.org.au](http://www.cobccc.org.au) for guidance, fact sheets and examples of Code breaches and good industry practice)

- ▶ For consumers (eg. Meg's story about financial difficulty)
- ▶ For Code Subscribers (eg. financial difficulty, advertising, direct debit arrangements)
- ▶ About us (eg. Code breach classifications)
- ▶ Code of Practice (eg enforcing the Code)
- ▶ News and Publications (eg. fact sheets)

# Own Motion Inquiry 'Community Engagement'

## Key Promise 9 'We will recognise our impact on the wide community'

- ▶ access to online portal provided to all Code Subscribers on 20 April 2016 (individual link and password)
- ▶ 14 questions, 30 to 60 minutes to complete
- ▶ discuss the inquiry questions with your Marketing Department and/or CEO
- ▶ provide insight and feedback about your engagement with the wider community
  - ▶ Define community you serve
  - ▶ Focus of engagement
  - ▶ Monitoring of engagement
  - ▶ Impact of engagement
  - ▶ Benefit to community

Due 31 May 2016

# 2016 Annual Compliance Statement

## Breach and complaints data for period 1 July 2015 to 30 June 2016

- ▶ Access to online portal available start of July via individual link and password
- ▶ Ability to save and print copy for own record
- ▶ Code breaches
  - ▶ Identify which sections of the Code have been breached
  - ▶ Identify and provide detailed information for significant breaches
  - ▶ Ensure that totals add up
- ▶ Complaints data
  - ▶ Identify products, issues, outcome and resolution timeframes of complaints
  - ▶ Ensure that totals for all four sections add up
- ▶ Examples for good industry practice
- ▶ Feedback: Daniela Kirchlinde [dkirchlinde@codecompliance.org.au](mailto:dkirchlinde@codecompliance.org.au)

Due 31 August 2016

# Enforcing the Code

Under our Charter, we may impose sanctions on a Code Subscriber. These include:

- Issuing a formal warning.
- Requiring the Code Subscriber to train its staff on the Code.
- Requiring the Code Subscriber to place corrective advertising.
- Publicly naming the Code Subscriber as non-compliant with the Code.
- Advising COBA of the Code Subscriber's non-compliant status, and/or failure to undertake a required course of action.

We may only impose a sanction on a Code Subscriber if we are satisfied that the Code Subscriber:

- Is guilty of serious or systemic non-compliance with the Code.
- Has ignored a request from us to remedy a breach of the Code or has failed to remedy that breach within a reasonable time.
- Has breached an undertaking given to us.
- Has not taken reasonable steps to prevent a breach of the Code from continuing to occur or reoccurring after having been warned by us that a sanction might be imposed.



# Wrap Up

- ▶ **Align**
  - ▶ business practice with Code obligations
- ▶ **Reflect**
  - ▶ on the value of an integrity framework
- ▶ **Understand**
  - ▶ why best practice can be good for business
- ▶ **Identify**
  - ▶ gaps in compliance and areas of risk
- ▶ **Spot**
  - ▶ problems and how to fix them
- ▶ **Gain**
  - ▶ some insight into the application of best practice to different business models
- ▶ **Clarify**
  - ▶ the role technology can play