Australian Government

Department of Education, Employment and Workplace Relations

FNSPRT402A Prepare a will

Revision Number: 1

INDUSTRY SKILLS COUNCILS

Creating Australia's Future

FNSPRT402A Prepare a will

Modification History

Not applicable.

Unit Descriptor

Unit descriptor	This unit describes the performance outcomes, skills and knowledge required to prepare wills, including their requirements and structures, assessing the testamentary capacity of a client, preparing documents and reviewing the will on behalf of the client. This unit may apply to job roles subject to licensing, legislative, regulatory or certification requirements so Commonwealth, State or Territory requirements should be confirmed with the relevant body.

Application of the Unit

Application of the unit	This unit applies to job roles in the personal trustee sector.

Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Prerequisite units		

Employability Skills Information

Employability skills	This unit contains employability skills.

Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Advise client on the nature of wills	1.1. ***Legislative requirements*** related to testamentary instructions and other ***relevant information*** are presented to and clarified with the client 1.2. Client questions are answered accurately, completely and in appropriate language 1.3. Accurate information, ethical advice and recommendations about suitable options are discussed with client 1.4. Potential conflicts or ***factors which may affect the validity of legal matters***, are identified and strategies for appropriate action are clearly communicated and liaison undertaken with the client's other professional advisers if necessary
2. Take testamentary instructions from client	2.1. An ***appropriate location*** for taking instructions from the client is selected and the client's testamentary capacity is accurately and appropriately assessed or confirmed with a legal or medical opinion obtained if required 2.2. Client instructions are accurately recorded in accordance with organisational policy 2.3. ***Essential details*** about client are established and their instructions clarified and confirmed
3. Prepare and execute documents	3.1. Drafts of the will are prepared according to ***statutory requirements and*** consistent with client's instructions and ***essential obligations*** 3.2. The will is checked for legal implications and complications and the client's verification of the will obtained 3.3. Execution of the will is arranged and correct execution is confirmed 3.4. Record keeping and safe storage of the will is organised according to organisational requirements
4. Review the will	4.1. Process for reviewing the will is organised according to organisational requirements and client instructions and is carried out with client as agreed 4.2. Communication is maintained with client's professional advisers if required

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge required for this unit.

Required skills

- well-developed communication skills to:
  - determine and confirm work and client requirements, using questioning and active listening as required
  - provide customer service and deal sensitively with clients
  - resolve conflicts
  - liaise with others, share information, listen and understand
  - use language and concepts appropriate to cultural differences
- research and analysis skills for accessing, interpreting and managing information
- IT skills for accessing and using appropriate systems and databases and using internet information
- numeracy skills to make calculations and interpret and financial reports
- literacy skills to:
  - read and interpret documentation from a variety of sources
  - prepare documentation
  - record, consolidate and file information
- administrative and organisational skills, including the ability to plan and sequence work
- teamwork skills to achieve organisational goals

Required knowledge

- relevant State and Territory legislation and regulation relating to:
  - wills
  - intestacies
  - probate and administration
  - trustees
- Commonwealth legislation and regulations including:
  - Income Tax Assessment Act
- business law for financial institutions including:
  - guidelines and procedures to ensure that legal requirements are met
  - correct legal terminology and phrases
  - statutory charges, taxes and other fees applicable to financial institutions
  - legal parameters of the customer/financial institution relationship
  - organisational policies and procedures required in the full range of tasks covered
- products and services offered by the organisation and fees attached

REQUIRED SKILLS AND KNOWLEDGE

- roles, responsibilities and powers of the personal trust officer including:
  - organisational expectations
  - limitation of personal authority (e.g. not giving investment advice)
- professional code of conduct in the personal trustee industry including:
  - ethical practices
  - integrity
  - professionalism
  - confidentiality
- techniques for contacting key organisational personnel with expertise in specialised areas relating to the personal trustee industry
- the types of tests applied to establish a client's capacity to make a valid will
- roles of external specialists and accessing resources relevant to requirements in the personal trustee industry

Evidence Guide

EVIDENCE GUIDE	
The Evidence Guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.	
Overview of assessment	
Critical aspects for assessment and evidence required to demonstrate competency in this unit	Evidence of the ability to: • undertake appropriate and relevant tasks associated with preparing a will • provide customer service strategies that allow for customer needs to be assessed and responded to • present factual information in the workplace and in relating to clients and their representatives.
Context of and specific resources for assessment	Assessment must ensure: • competency is demonstrated in the context of the financial services work environment and conditions specified in the range statement either in a relevant workplace or a closely simulated work environment • access to and the use of a range of common office equipment, technology, software and consumables • access to appropriate legislation and regulations relevant to preparing a will, workplace manuals and reference material such as company policy, procedural manuals and checklists.
Method of assessment	A range of assessment methods should be used to assess practical skills and knowledge. The following examples, in combination, are appropriate for this unit: • evaluating an integrated activity which combines the elements of competency for the unit or a cluster of related units of competency • observing processes and procedures in workplaces • verbal or written questioning on underpinning knowledge and skills • setting and reviewing simulations or scenarios • accessing and validating third party reports.
Guidance information for assessment	

Range Statement

RANGE STATEMENT	
The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.	

Legislative requirements may include:	• State and Territory legislation and regulation relating to:
	  • wills
	  • intestacies
	  • attorneyships and guardianships
	  • partnerships
	• Commonwealth legislation and regulations including:
	  • Income Tax Assessment Act.

Relevant information may include:	• contact for further taxation advice
	• fees to be charged
	• legislative requirements
	• organisational policies and procedures
	• ownership changes to minimise Capital Gains Tax (CGT)
	• recommendations about options
	• roles and responsibilities of parties involved in making a will such as:
	  • solicitors
	  • client
	  • personal trust officer
	• taxation issues.

Factors which may affect the validity of legal matters may include:	• destruction of a will • divorce • marriage • revocation by a later will • testamentary capacity • undue influence.
An ***appropriate location*** may include:	• premises of the trust corporation • premises of the client or their representative • other agreed location (e.g. hospital).
Essential details concerning the client may include:	• appointment of executor • custody and guardianship of minor children • debts

RANGE STATEMENT	

	• details concerning assets and liabilities
	• details of beneficiaries':
	  • names
	  • location
	  • relationship to testator
	• directions as to the disposal of body
	• grant of further powers
	• personal details
	• residuary clause.

Statutory requirements may include:	• the appointment of an executor • the attestation • the body • the revocation of previous wills • the testimonium.
Essential obligations may include:	• directions as to the disposal of the body • payment of debts • taxation implications on death and the transfer of assets, including CGT.

Unit Sector(s)

Unit sector	Personal trustee

Competency field

Competency field	

Co-requisite units

Co-requisite units		