



Australian Government

FNSPRT507 Apply principles of fiduciary duty, substituted decision-making and ethical decision-making

Release: 1

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Modification History

Release	Comments
Release 1	This version first released with FNS Financial Services Training Package Version 2.0.

Application

This unit describes the skills and knowledge required to make legal and ethical decisions in relation to a trustee organisation's clients, including clients who lack financial capacity and minor beneficiaries.

It applies to individuals who deal directly with clients and other employees of a trustee organisation who make client decisions and provide traditional trustee services.

Work functions in the occupational areas where this unit may be used are subject to statutory and common law requirements. Refer to the FNS Implementation Guide Companion Volume, the Corporations Act (Commonwealth), relevant state and territory legislation and case law for specific guidance on requirements.

Unit Sector

Personal trustee

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
<i>Elements describe the essential outcomes.</i>	<i>Performance criteria describe the performance needed to demonstrate achievement of the element.</i>
1. Identify the type of client and the client's needs, interests and rights	1.1 Confirm whether the client is a beneficiary, minor beneficiary or represented person 1.2 Identify the needs, interests and rights of the client and the relevant fiduciary duties and substituted decision-making principles that should be applied in dealing with the client 1.3 Identify broader ethical issues associated with the delivery of traditional trustee company services to the client
2. Apply legal and ethical	2.1 Identify the legal requirements necessary to discharge a fiduciary

ELEMENT	PERFORMANCE CRITERIA
principles to fiduciary duty and decision-making	duty, to act as a substituted decision-maker and to act ethically 2.2 Make decisions in relation to the client which meet the client's needs, are in the client's best interest and uphold the client's rights 2.3 Support and encourage clients to exercise their rights without compromising their safety and that of others 2.4 Inform other relevant stakeholders of the client's needs, interests and rights
3. Maintain a working knowledge of trustee fiduciary duties and substituted decision-making and ethical principles	3.1 Access relevant legal and organisational sources to ensure current knowledge of fiduciary duty, substituted decision-making and ethical principles 3.2 Modify any client services, processes and procedures where necessary to comply with current fiduciary duty, substituted decision-making and ethical principles

Foundation Skills

This section describes language, literacy, numeracy and employment skills incorporated in the performance criteria that are required for competent performance.

Skill	Performance Criteria	Description
Reading	1.1, 1.2, 2.1, 3.1	Critically analyses documentation from a variety of sources and documents and consolidates information to determine requirements
Oral Communication	1.1, 1.2, 2.3, 2.4	- Participates in verbal exchanges using active listening and questioning techniques to convey information and elicit the views and opinions of key stakeholders - Clearly explains detailed information using concepts, language, tone and pace appropriate to the audience
Navigate the world of work	1.3, 2.1, 2.2, 3.2	- Makes decisions to develop and implement solutions for clients to ensure organisation meets requirements - Monitors and reviews the organisation's policies and procedures and adherence to legislative and regulatory requirements and ethical principles
Interact with others	1.1, 1.2, 2.3, 2.4	- Uses a variety of relevant communication tools and strategies in building and maintaining effective working relationships - Takes a lead role in communicating the client's best interests

Get the work done	1.1-1.3, 2.1, 2.2, 3.1, 3.2	• Systematically gathers and analyses all relevant information to determine work requirements and make decisions • Develops routine and non-routine solutions with strategic implications that involve a diverse range of stakeholders • Monitors results and makes adjustment where necessary • Uses digital systems and technologies to enter, store or access information
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Unit Mapping Information

Code and title current version	Code and title previous version	Comments	Equivalence Status
FNSPRT507 Apply principles of fiduciary duty, substituted decision-making and ethical decision-making	Not applicable	New unit covering essential trustee decision-making skills	No equivalent unit

Links

Companion Volume implementation guides are found in VETNet -

<https://vetnet.gov.au/Pages/TrainingDocs.aspx?q=c7200cc8-0566-4f04-b76f-e89fd6f102fe>

Assessment Requirements for FNSPRT507 Apply principles of fiduciary duty, substituted decision-making and ethical decision-making

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Performance Evidence

Evidence of the ability to:

- identify the relevant fiduciary duty, substituted decision-making and ethical decision-making principles, and associated legislative requirements when providing traditional trustee services to a client
- apply fiduciary duty, substituted decision-making and ethical decision-making principles and associated legislative requirements to make decisions for a client and explain to the client or other relevant stakeholder, how that decision meets the client's needs and interests and upholds their rights
- use systems to maintain knowledge of fiduciary duty, substituted decision-making and ethical decision-making principles and associated legislative requirements.

Note: If a specific volume or frequency is not stated, then evidence must be provided at least once.

Knowledge Evidence

To complete the unit requirements safely and effectively, the individual must:

- explain key elements of the legislative requirements, including common law, that apply when providing traditional trustee services to clients including:
 - fiduciary duty
 - substituted judgement
 - ethics and equity
- explain key elements of the prudent person principles including:
 - diversification
 - investment risks including losing capital or income
 - capital maintenance
 - capital depreciation

- capital appreciation
- estimated income return
- liquidity and marketability of the proposed investment
- aggregate value of estate in trust
- describe client needs, interests and rights relevant to the requirements of fiduciary duty, substituted decision-making and ethical decision-making principles including:
 - physical and emotional security
 - support and care
 - economic support
 - household assistance and maintenance
 - possessions
 - bank accounts
 - accommodation
 - facilities
 - services available and desired
 - recreational pursuits
 - participation or non-participation to the degree desired
 - receive or refuse quality services
 - human rights including the right to freedom from discrimination
- describe traditional trustee company products and services including:
 - estate planning
 - writing wills
 - acting as executor of deceased estates
 - establishing and administering personal trusts
 - preparing and administering powers of attorney
 - acting as guardian or financial manager, usually under court or tribunal order, to protect vulnerable beneficiaries
 - administering charitable trusts and foundations
- discuss key sources of information on fiduciary duty, substituted judgement and ethics and equity principles and associated legislative requirements including:
 - courts
 - existing or proposed trust deeds
 - industry bodies
 - relevant federal, state and territory government organisations
 - organisational policies and procedures.

Assessment Conditions

Assessment must be conducted in a safe environment where evidence gathered demonstrates consistent performance of typical activities experienced in the personal trustee field of work and include access to:

- common office equipment, technology, software and consumables
- appropriate legislation and regulations relevant to trustee organisations
- organisational reference materials such as policies, procedures, manuals and checklists.

Assessors of this unit must satisfy the requirements for assessors in applicable vocational education and training legislation, frameworks and/or standards.

Links

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<https://vetnet.gov.au/Pages/TrainingDocs.aspx?q=c7200cc8-0566-4f04-b76f-e89fd6f102fe>