



FPA Guide to Accrediting Professional Reading material

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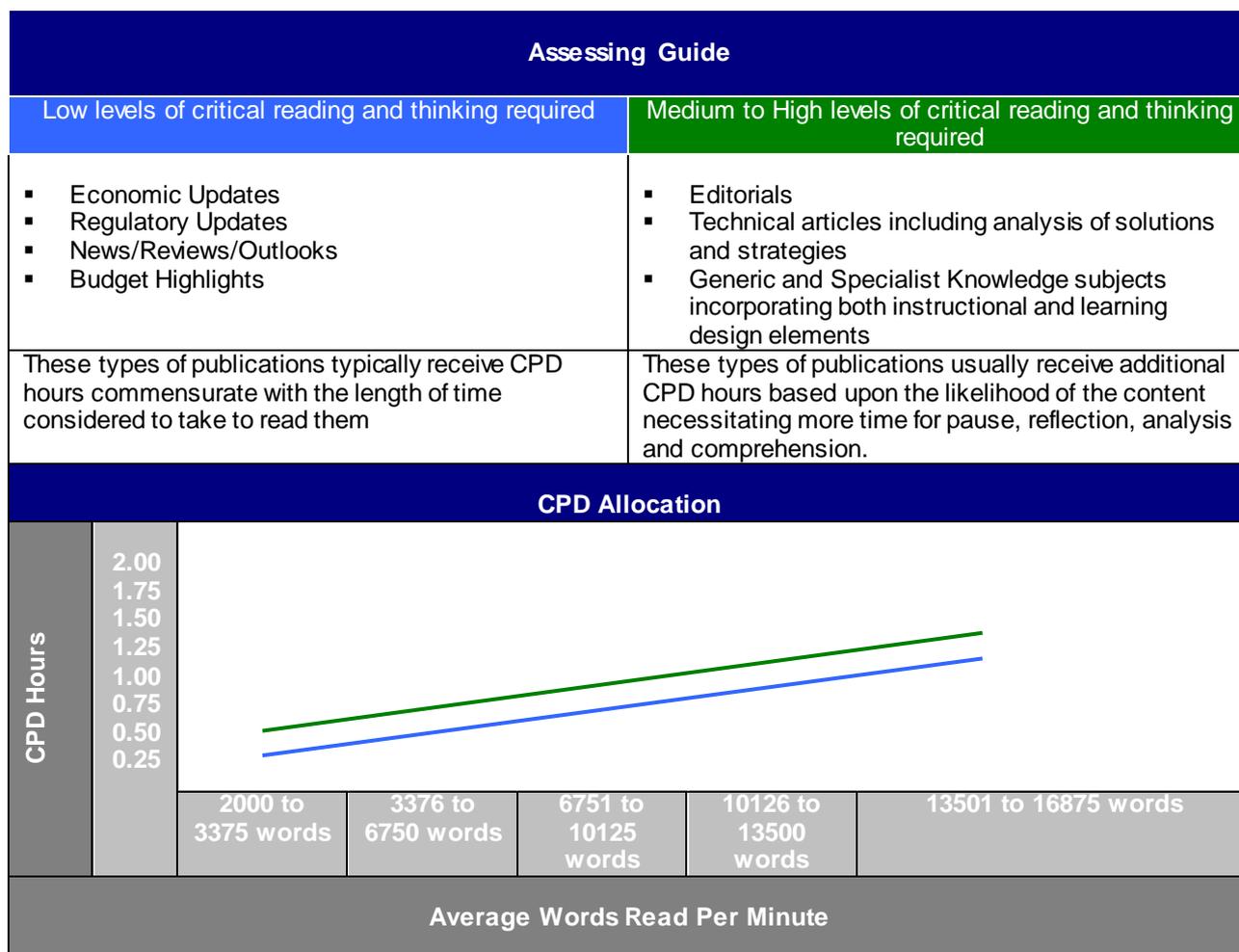
Accrediting Professional Reading Material

These guidelines, including two sample accredited articles, have been developed to document the approach taken to evaluate and accredit professional reading material for continuing professional development (CPD) hours. The challenge for any CPD assessor is how to satisfactorily allocate CPD hours to published material whereby the point structure integrates both time to read the text (duration) multiplied by the factor of 1 hours' activity.

The three key fundamental factors to consider are;

- average words (including graphs/diagrams) read per minute by 'average' reader
- number of words contained in the text
- level of comprehension required

The table below identifies the two most popular segments that professionally published material falls into based upon what is currently being delivered in the financial services industry. The FPA has sought to illustrate for the benefit of its accredited CPD assessors and external CPD providers, its approach to evaluating and allocating CPD hours by projecting the table's findings into the CPD Allocation graph. These illustrations serve as a guide only and reference should be made to the supplementary information contained in the following notes.



¹ Average reader is considered to be, by FPA definition, a financial planner or member of the Financial Services Industry who is qualified above the minimum education level i.e. have completed units 1-4 of the Diploma in Financial Services (Financial Planning).



Supplementary Information:

Reading

To understand what we do when we read is to understand the workings of the human mind. As Huey stated in 1908, there is a correlation between reading comprehension and intelligence. Reading is the fluent recognition of words and grasping of implied meaning by relating words and sentences to each other, the text, and the reader's background intelligence.

Intelligence, used when reading, is abstract reasoning, the capacity to acquire knowledge, and problem solving.

Number of words contained in the text

There are a variety of methods to calculate the number of words a person could accomplish reading in any one minute, hour, and day and so on. Analysing text and determining the number of syllables (both mono-syllables and poly-syllables) is also a tried and tested measure to assist with determining how long a passage of text can take to read. Each having their own validity when considering the context of the target audience i.e. mono-syllables ensure a more efficient reading rate than poly, while the presence of more poly-syllables in text would suggest a longer read on typically more advanced or complex material.

Average words read per minute

Determining what an average reader can read and comprehend is not an exact science. In fact there are many variables to consider such as;

The Text	<ul style="list-style-type: none"> ▪ Size of print ▪ Volume and Quantity 	<ul style="list-style-type: none"> ▪ Contrast and Colour 	<ul style="list-style-type: none"> ▪ Interest and Motivation
The Reader	<ul style="list-style-type: none"> ▪ Comprehension ▪ Age 	<ul style="list-style-type: none"> ▪ World Knowledge ▪ Poor Attention/Concentration 	<ul style="list-style-type: none"> ▪ Poor word recognition ▪ Low confidence ▪ Time poor

Average Words per minute is a common metric for assessing reading fluency. It is often used in the context of remedial skills evaluation. It is also used in the context of speed reading, where it is a controversial measure of reading performance. A word in this context is the same as in the context of speech. Proficiency tests more commonly approach the measuring of reading fluency as the time it takes for a person to read an extract or passage divided over sixty seconds/one minute.

Whilst there are a number of ways to determine the average time it might take a person to fully read and comprehend a piece of text, research indicates that for adult readers, the average falls between 200-300 words per minute.

Calculation of the duration of any reading activity upon the principle of counting whole words in text/s and dividing by the average words read per minute of 225. Calculating the appropriate length of time (duration) of the proposed activity and is a key factor that should be considered together with the text composition and including other variables e.g. graphs, case studies, tables and statistics, all requiring varying degrees of critical reading (and thinking) and engagement of comprehension processes (see below).



Comprehension

Comprehension is the act of understanding and “the essence of reading”. It is often taken to mean reading comprehension but is needed for speaking, listening, and writing as well.

The FPA considers text should comprise the following to support comprehension;

- Short sentences to consolidate ideas
- Vary the structure of sentences to maintain interest
- Re-phrasing of words to exhibit a clear voice i.e. edit redundant or verbose phrases and eliminate words that are non-essential to meaning or mood
- Consideration of audience and literacy levels
- Pedagogical elements/features (if appropriate)

Text

Words, diagrams and statistical content must all be considered when assessing the required level of comprehension. Text in terms of the font style and colour can arguably be both an advantage to assist with reading efficiency and comprehension as well as detrimental to effectiveness of retention and reinforcement of the messages being conveyed.

Consider word difficulty and syntactic difficulty. Word difficulty has often been assessed in terms of syllable length, frequency of word usage, or type of word (i.e., content vs. function word) and this factor appears to contribute the most in typical readability prediction studies. Syntactic complexity primarily has been described in terms of sentence length (number of words per sentence), although some investigators have assessed the ratio of clause embeddings per sentence as an index of syntactic difficulty. (Loban 1976).

Also consider the use of illustrations and diagrams to represent information as is a case study or statistics as these impact the normal time to reflect and think critically when compared to regular text. Beware however of crossing the readers cognitive processing boundaries or limitations. For example, whilst detailed and sometimes complex case studies or scenarios can assist with the visualizing and comprehension of both the characters concerned and the steps to a successful approach or implementation, too much information or ineffective segmenting of a complex case study or scenario, can have the opposite effect and disengage the reader and the opportunity for them to learn.

Vocabulary encompasses the words we must know to communicate effectively, including oral or reading vocabulary. Oral vocabulary includes words we use when speaking or words we recognise when listening. Successful reading vocabulary includes words we recognize or use day to day.

Critical Reading and Critical Thinking Elements

Critical *reading* is a technique for **discovering** information and ideas within a text.

Critical *thinking* is a technique for **evaluating** information and ideas, for deciding what to accept and believe.

Critical reading is concerned with figuring out whether, within the context of the text as a whole; it has a purpose, offers an argument or opinion, what are the persuasive elements in an opinion or argument, or if there is existence of any bias.

Critical thinking would come into play when deciding whether the chosen meaning was indeed true, and whether or not you, as the reader, should support that practice.



By these definitions, critical reading would appear to come before critical thinking: Only once we have fully understood a text (critical reading) can we truly evaluate its assertions (critical thinking).

Critical reading refers to a careful, active, reflective, analytic reading. Critical thinking involves reflecting on the validity of what you have read in light of our prior knowledge and understanding of the world. Does the text engage the reader to use a repertoire of active comprehension strategies, including prediction, analysing stories with respect to story grammar elements, question asking, image construction, and summarising.

Inferring

- ✦ Forming a best guess using evidence – context clues, picture clues etc
- ✦ Making predictions
- ✦ Drawing conclusions
- ✦ Finding meaning of unknown words

Synthesising

- ✦ New information that makes the reader re-evaluate their mental pattern to form a new mental pattern

Critical Reading

- ✦ A specific topic is addressed
- ✦ Terms are clearly defined
- ✦ Evidence is presented
- ✦ Common knowledge accounted for
- ✦ Exceptions are explained
- ✦ Causes must precede effects/outcomes
- ✦ Conclusions should follow logically from earlier evidence

Critical Thinking

- ✦ Is the information reliable
- ✦ Is the information true/factual?
- ✦ Evaluate the evidence upon which the conclusion is based
- ✦ Assess cognitively

Assessment

An active and complex process that involves understanding written text, developing and interpreting meaning, and using meaning as appropriate to type of text, purpose and situation. To construct meaning, readers must decode words fluently, understand vocabulary, make inferences, and relate the ideas in text to their prior knowledge and experiences.

There are many ways to assess reading comprehension so care must be exercised to match the level of proficiency of the readers and the purpose of testing with the format, content, and method of assessment.

Responses based on retellings, constructed responses, selection among multiple-choice answers, and filling in the missing words can all yield useful measures of reading comprehension.

The FPA considers text should contain the following attributes to support comprehension;

- Are the assessment questions supporting of the key objectives and content in the text provided?
- Are there a sufficient number of questions to adequately prompt and reinforce the reader's comprehension of the subject?
- Are the assessment questions ambiguous?
- Is the reader provided with the correct answers at the conclusion?



- Do the questions identify sufficiently the expectation of depth and/or understanding in the reader's response?
- Is there a sufficient number of distracters incorporated into the question/s i.e. how easy it is to correctly respond to the question without having read the text?

FPA Process Checklist

Reading and Comprehension Elements	Tick if applicable
1. Review the text	
2. Consider structure of the text including; <ol style="list-style-type: none"> 1. Word difficulty & Syntactic difficulty 2. Information represented in diagrams and as statistical 3. Scenarios and Case Studies 	
3. Consider whether it targets the appropriate audience and literacy level	
4. Identify any critical thinking elements; (Does the text engage the reader to use a repertoire of active comprehension strategies, including prediction, analysing stories with respect to story grammar elements, question asking, image construction, and summarising).	
5. Does the assessment align to the objectives or stated outcomes	
6. Calculate the approximate length of the activity including any assessment; Total Words/AWPM (225) = Total A	
7. Convert Total A above into CPD hours	
8. Include any moderation appropriate after considering points 2-5 above	

References:

Some information above has been adapted from;

The psychology and pedagogy of reading 1908/1968 E.B. Huey
 Critical Reading 2002 D J Kurland
<http://callcentre.education.ed.ac.uk>
 National Institute for Literacy
 Mindbluff.com
 Turboread.com
 Bangor University
 Readingmatrix.com
 Proread.com
 Prof K B Murray/Bryant College



Preface: Below is a sample article to read. The assessor has highlighted in purple, the elements of the article which is his opinion could require additional consideration/critical reading. At the foot of the article is an excerpt from the reviewers full assessment notes.

Compliance roundup 2008

By Claire Wivell-Plater

Four years after the introduction of the Australian Financial Services (AFS) reforms, you could be forgiven for hoping that you could settle into a mature regulatory environment. But 2008 has continued to see ongoing changes and refinements to the obligations faced by financial planners in running their businesses. Let's look at some of the changes over the past year.

AML/CTF

Probably the most significant new obligation was the Anti Money Laundering (AML) and Counter Terrorism Financing (CTF) requirements, which require planners to identify new and existing clients before arranging for various financial services to be implemented (including deposits in a cash management trust, investment in a managed fund or superannuation, buying shares and taking out a life insurance policy).

Planners need to have a risk-based compliance program in place, which includes documenting your risk assessment process and your procedures for client identification record-keeping. While planners do not need to report to Austrac on their compliance programs, after 12 December 2008 they will need to report suspicious matters to Austrac.

Professional indemnity insurance

While planners no longer need to lodge a security bond with ASIC, they do need to hold adequate professional indemnity insurance. ASIC has set minimum guidelines for what is 'adequate' insurance. Although ASIC's requirements have expanded the boundaries of what was previously commonly available in the PI insurance market, the insurers have responded well and have extended policy coverage to meet ASIC's requirements.

Planners need to review their PI insurance at least annually (more regularly if there are any significant changes to their business) to ensure that it continues to be 'adequate'.

An ongoing concern for the profession has been the reluctance of insurers to insure planners in the current volatile market. Already some insurers have exited this market. It is likely that insurance premiums for financial planners will rise significantly in the next few years due in part to the shortage of insurers willing to insure planners, and in part to the 'hardening' of the insurance market, which is inevitable after a period of economic downturn.

Changes to training standards

In response to concerns that the training standards in RG 146 were too inflexible, more tailored and flexible training requirements have been introduced for straightforward products that do not involve an investment component.

The generic knowledge component was removed for Tier 2 products because it is not considered necessary for these products, as they do not involve an investment component and are not subject to market fluctuations. Also licensees can now assess the appropriateness of their own training on basic deposit products and related non-cash payment products. This means that licensees can refine training materials and ensure that they are more relevant to the products that they recommend.

To improve the quality and currency of courses on the ASIC Training Register, and deal with non-compliant courses, ASIC will now conduct upfront or ongoing assessment of courses and requires training providers to reregister their courses at least every three years. While this imposes an additional burden for training providers, planners seeking quality and up-to-date courses have welcomed it.



Reference checking

As part of a campaign to remove 'bad apples' from the industry (and prevent their entry), more stringent guidelines for reference checking were introduced. The aim is to have employers obtain reasonable, objective, relevant, factual, accurate and balanced information when obtaining references.

In effect the guidance moves the focus from obtaining references to properly verifying those references. Take note of the following referencing tips:

'Always verify mobile phone numbers where they are the only number provided;

'Question why current employers are unwilling or unable to provide information;

'Carefully look at apparent official supporting documentation that contains typographical errors, errors of fact, non standard logos, or any signs of alteration; and

'Check job titles that seem unusual, vague or totally unrelated to previous job titles (particularly where there is a significant leap in responsibility between jobs).

What to look out for in the year ahead

The one thing that is certain is that we will see even more change in the year ahead. Some we know about already, but it is clear that there will be a widespread regulatory review as a result of the global financial meltdown. This will include additional disclosure requirements on short selling, and limits on the use of leverage in designing financial products (either through more transparent disclosure or quantitative limits, or a combination of both).

The changes to look out for include: 1) uniform credit regulation; 2) more affordable advice; 3) a review of external dispute resolution (EDR) schemes; 4) superannuation forecasts; and 5) improved disclosure on unlisted mortgage and property schemes.

1) Uniform credit regulation

We are set to see the implementation of uniform, national processes for credit and credit-related services, such as mortgage and finance broking for both consumers and businesses, all of which will be regulated federally by ASIC. This is a welcome change in order to eliminate the cost, confusion and administrative overload created by the current state-based regulation.

Margin lending will come under the AFS regime, which will require margin lenders to provide product disclosure statements similar to First Home Saver Accounts.

2) More affordable advice

There are a number of initiatives underway to make it easier to provide limited advice. One of the most significant barriers to this at present is the need to undertake a full fact find in order to 'know your client', research, analyse, and prepare a Statement of Advice (SoA), even if the planner is only responding to a general request or giving limited advice. This makes it economically unviable to provide limited advice.

The most important of these initiatives include the simplification of SoAs. The FPA has started the ball rolling by producing a simplified SoA. The Federal Government's Financial Services Working Group is considering the simplified SoA, but no proposals are expected until late 2009.

The FPA is seeking greater clarity in the legislation around the extent of the enquiries needed, the 'know your client' requirements, and the consideration and investigation required when providing limited advice. The government is seeking to improve consumer access to simple financial advice within superannuation funds at low-cost, in particular queries on issues such as investment choice, insurance, contribution types, nominating beneficiaries and retirement income projections. This is not readily available at present due to the complexity of issues within superannuation and the uncertainty about the requirements for providing limited advice.

A range of solutions has been proposed including further guidance from ASIC (or changes to the Act) regarding the scalability of the 'suitable advice' rule, in effect limiting the 'know your client' requirement for simple intra-fund advice issues. Also, guidance might be provided on the required content of SoAs in this situation and how staff with less training can be used to 'pass on' advice by following a script. A report from the Working Party is expected shortly.



Another initiative will enable financial services disclosures to be made via an email, either enclosing the documents or instructions on where the information can be found, or including a hyperlink to the information. This will make disclosure more interactive, innovative and user-friendly and is likely to result in substantial cost savings.

3) Review of EDR schemes

Considerable changes have been proposed by ASIC and the Financial Ombudsman Services (FOS) to the way the EDR scheme resolves disputes between planners and consumers.

The most significant proposals will change the scope of the disputes FOS can consider. They include increasing the current monetary limit to a cap of \$280,000, allowing consumers to claim financial and non-financial loss (e.g. distress and inconvenience) and allowing consumers to reduce the amount of their claim to fall within the limit so that they can access the EDR scheme.

ASIC is also reviewing the way in which FOS operates.

4) Superannuation forecasts

It is likely that superannuation providers will be able to give members a 'super snapshot' (i.e., an estimate of how much they are likely to retire with based on how much they have saved so far), without the need for an SoA.

Around 46 per cent of workers rely on the minimum contribution, and about 33 per cent of those making additional contributions are still not on target for an 'adequate' retirement. It is hoped that readily available snapshots of their projected end-benefit might focus consumers' attention on the importance of saving for retirement.

5) Improved disclosure on unlisted mortgage and property schemes

It is likely that benchmark-based reporting will be provided by unlisted mortgage and property schemes, which together have in the order of \$72 billion under management. The objective is to make it easier to compare between unlisted mortgage and property scheme investments.

Current trends in compliance

Probably the most common situation that we see when reviewing planners' compliance is that while there has been a lot of emphasis and work done on refining their advice process and disclosures, and monitoring advisers, many of the other licensing requirements are being neglected.

For example, it's quite common that conflict of interest procedures have not been implemented, risk management plans are out-of-date and cash flow monitoring is inadequate or non-existent.

The best practice management procedures now demanded by the AFS legislation are key licensing requirements. While it's easy to overlook them when faced with the demands of servicing clients, they are an important part of maintaining your licence.

Increasingly, planners are looking at providing a holistic financial service for clients, by adding discretionary management, finance, life or general insurance services, to name a few. This will usually mean applying for a variation to their licence. Because ASIC looks at variations as carefully as new licenses, applicants need to demonstrate that their compliance is in place or up-to-date. So keeping all parts of your compliance management system up-to-date will stand you in good stead if you are thinking of extending your licence.

Implications of recent volatility for financial planners

Planners are experiencing a deluge of calls from clients who are worried about the value of their investments, particularly from retirees and pre-retirees who are concerned about their retirement lifestyle.

There is a natural tendency in times such as these to want to blame someone. And planners are likely to be natural targets for those who have watched their investments diminish. So it's not hard to predict that there will be an increase in complaints and claims against planners.

When you receive a complaint, remember that not all complaints need to turn into a dispute. With careful management, they can often be resolved to the client's satisfaction.



Carefully listen to what the client has to say so that you clearly understand the nature of the complaint. Give the client plenty of time and try to collect as much information about their concerns as you can. Find out if their main concern is liquidity, price decline or volatility, as this will assist you to work out how to handle their concerns and what you need to do for them.

If it is a liquidity issue, you may need to review the portfolio and change the strategy in order to free up some capital.

If they are concerned about price declines or volatility, then consider if you can resolve the issue with a simple explanation. Either way, take the time to review the client's file and the investment strategies that you have recommended and implemented for the client. Consider whether you could have done anything differently at the time that the strategy was put in place.

Remember that you did not then have the benefit of hindsight that you now have. Minister of Superannuation and Corporate Law Senator Nick Sherry was heard to say the following: "Planners, like everyone else on the planet, didn't see the US financial crisis coming our way and the impact that was going to have on world share markets."

Ensure that the client understands their investments and what they represent in their portfolio. If the portfolio is well balanced, in solid investments and was made with a medium to long-term horizon in mind, then reassure the client that they should not be concerned about short-term volatility or price declines. When you have reviewed the file, if you have any concern that the complaint could give rise to a claim against you, then notify your professional indemnity insurer. A failure to do so at this point could jeopardise your entitlement to indemnity under the policy.

It's hard to find any good news in the global financial crisis. But one advantage has been that both individuals and businesses have turned to life risk and income protection in order to protect their positions. So consider recommending this strategy to clients concerned about their portfolio.

Claire Wivell-Plater is a director of Gold Seal Risk Management Services, an FPA Professional Services Partner for compliance and a leading provider of Compliance, Legal and HR services throughout Australia. For further information about policy issues visit the policy and government relations section of the FPA website at www.fpa.asn.au.

Assessment - Compliance Roundup

1. While planners no longer need to lodge a security bond with ASIC, they must hold adequate professional indemnity insurance, which must be reviewed:

- a) Every year;
- b) At least annually, and more regularly if there are any significant changes to your business;**
- c) Every three years; or
- d) Only when there are significant changes to your business.

2. To improve the quality and currency of courses on the ASIC Register, and to deal with non-compliant courses, training providers must reregister their courses at least every:

- a) Five years;
- b) One year;
- c) Three years; or**
- d) Whenever ASIC deems fit during its ongoing assessment process.

3. During the review of EDR schemes, the most significant proposals will increase the scope of consumer claims, increasing the current claim cap to:

- a) \$58,000;
- b) \$280,000;**
- c) \$28,000; or
- d) \$580,000.



4. When dealing with client complaint, planners should:
- a) Get a clear understanding of the nature of the complaint;
 - b) Review what investment strategies you have recommended and implemented for the client;
 - c) Ensure that the client understands their investments and what they represent in their portfolio; or
 - d) All of the above.**

FPA CPD Assessor Review Notes

The key considerations after assessing this article were;

- The text omits the use of jargon and is segmented by short headings containing brief details of changes and refinements to the regulatory environment over the past year.
- The information is factually based upon various regulatory requirements incumbent upon the profession. The information is in the form of an 'update' and requires only partial reflection.
- There is limited opportunity for critical reading (and therefore critical thinking) in light of the absence of material (or opinion) to challenge the readers beliefs i.e. questions, case studies, scenarios, statistics or diagrams etc.
- There are however some assumptions made by the author, as highlighted in purple. These can require a minor degree of critical thinking by the reader which should be accounted for when moderating the duration and CPD hours to be allocated.
- The assessment questions seek to reinforce understanding of the key points raised in the article.
- This article would be assessed at 0.25 CPD hours which includes the standard conversion of the total words contained in the article divided by average words per minute and moderated to account for the appropriate reviewer's comments above.
 - Example calculation: $2362 \text{ words} / 225 \text{AWPM} = 11 \text{ minutes}$.
 - Rounded to 15 minutes
 - As the article requires limited critical reading, the assessor considers it need only be read once.



Preface: Below is a sample article to read. The assessor has highlighted in purple, the elements of the article which is his opinion could require additional consideration/critical reading. At the foot of the article is an excerpt from the reviewers full assessment notes.

In search of the simple client

By Michael Perkins

This article illustrates how an apparently simple estate can become complicated because of the situation of the next generation in the family.

A key question for planners is defining where their responsibility starts and stops when dealing with the family accountability of clients.

Consider the situation of your long-standing clients, George and Winifred. George and Winifred regularly confide in you about family and personal matters in addition to the financial affairs with which you are primarily responsible.

Assume that your employer/AFSL licensee has established support for their planners to take a client-centric (advice and strategy-led) service approach when dealing with private wealth management clients.

First contact – the job at hand

George has been your client for the last 10 years. He was referred to you after he married Winifred and they had a child.

George tells you he is concerned about Winifred should he die before her. She is a youthful and active 68-year-old, who spends a lot of time at the golf club. She has a wide circle of friends and George believes that one of the widowers around the club will move in quickly on his death, claim the estate and subsequently leave Winifred.

He wants his estate kept primarily for his son and bloodline successors, but wants to make sure Winifred can be kept in the lifestyle to which she has become accustomed, funded easily from their current estate assets.

What options does he have?

George asks you to “sort me out” and come up with a plan for him to consider.

The estate planning process

You explain to George that if you are to assist him you will need to have a broader discussion with him and his son, John, about more than just his financial affairs.

George agrees with this and accepts your offer to undertake a comprehensive estate review:

1. Identify the issues.
2. Gather information about assets and liabilities.
3. Have George and John share their interests, priorities and goals, not just his concerns about creditors and predators around Winifred after he dies.
4. Work with George to develop property ownership, sharing and succession principles for his estate administration and succession.
5. Consider the ‘creative’ options you will present to him.
6. Evaluate those options that are consistent with the principles of George and his estate stakeholders that satisfy their common and individual interests.
7. Consider the alternatives and assist George resolve any conflicting interests identified in the planning process.
8. Document any agreement between the parties and the final strategy selected by the client.
9. Implement estate representation and management consistent with the estate plan.
10. Periodically review the performance of the agreement or as otherwise required by law. Adjust the performance of the agreement as necessary.



Identify and analyse the relevant issues

You identify key estate risk areas to George and John that needs further discussion:

- 'Personal and family representation and succession;
- 'Family continuity, governance and legacy;
- 'Wealth preservation, enhancement and transfer;
- 'Business ownership and control; and
- 'Financial security and compliance.

You identify the relevance of these estate risk areas to the interests and objectives of George.

You advise George that:

'As he and Winifred live in New South Wales, the family provision legislation gives Winifred substantial rights to challenge his will if she does not receive sufficient benefits.

'On his death, the funds held for him in the SMSF will not be immediately subject to the terms of his will.

'He needs to consider how he will interlock the operation of his superannuation fund with the operation of his will.

'He and Winifred seem to have a common interest in ensuring that John's inheritance is not exposed to US taxation including inheritance tax because John is married to a US citizen.

'The use of reversionary pensions in his SMSFs to control the inheritance of superannuation on the death of the first of George and Winifred is appropriate and needs further evaluation in the context of their retirement planning.

'The use of testamentary trusts is appropriate because there is a need to ensure that on the death of George and Winifred their estate is being managed for the benefit of John and his successors with minimum exposure to US tax.

'Focusing on using trusts to protect the inheritance path of John from US tax exposure will have the benefit of keeping estate capital in trustee ownership during Winifred's life and therefore out of the hands of creditors and predators on Winifred if he dies before her. You make the point that Winifred will be more likely to support this trust approach in the wills if she sees the benefit of the strategy for her own estate planning needs.

'You explain that the terms of any trust can be customised as necessary for the precise objectives of him and Winifred.

'You explain to George and John that they need to plan for the succession of representation of not only the personal roles of attorneys, guardians and executors but also the trustee roles in SMSFs, family trusts and active business interests.

'You explain to George that in his estate planning, he cannot assume that either Winifred or John will survive him and therefore it is important that the estate plans for himself and John are interlinked so that the structuring of appropriate support for John's wife Gail and their children will occur if John predeceases George. You illustrate this by reminding George that he and John have a regular poker game that John drives them both to. If one night they had an accident, John might be killed straight away and George might die of his injuries six weeks later. You ask, "And what should happen next?"

'You advise if this route is followed, the services of a specialised trusts and estate practitioner will be needed.

You advise John that:

'Because Gail is a US citizen, specialised estate and tax advice is required.

'John needs to understand not only the tax benefits available to him under the Australian tax system with superannuation, small business tax rollover concessions and freedom from formal inheritance taxes, but also the tax burdens and concessions available to him as the spouse of a US citizen.

'You explain that notwithstanding he and Gail live in Australia, the US taxes are levied on 'citizenship' and Gail can only eliminate that burden if she gave up her citizenship.

'You ask John to consider renouncing his children's US citizenship.



'John really needs to have his inheritance path managed by his parents' wills rather than his own if he wants to provide tax effective income streams from their estate to his children and minimise the exposure of his inheritance path to US taxation.

'While he was working in his business, the inheritance path protection under his parents wills and contribution to superannuation would provide an effective asset protection strategy for John.

'The capital he has exposed to his business would need to remain in a form of ownership that qualified for the superannuation small business rollover concessions. This capital remains at risk and could not be protected absolutely from third parties claims through the business.

'The degree of complexity of his affairs means that specialised assistance from accounting, tax and legal resources would be needed. Your role as a planner is to assist John with the management of his affairs in general as well as to facilitate his use of financial products and services. Your primary professional focus is on financial planning and management and to project managing the other aspects of John's affairs with which he requires assistance. You need to expand the terms of engagement to adequately define these roles and John's expectations of these roles.

Planning horizons

The best results come from defining a strategy that operates for the benefit of multiple generations in the family. The mere fact that John married Gail, a US citizen, means that the family had to plan for the implication of citizenship and geography, not just the needs of multiple generations in the family.

The estate planning of children is best initiated in and coordinated with the estate planning of their parents.

Managing the ownership of assets

The appropriate use of trusts gave the family broad options for separating the management of assets from the managing of benefits from those assets.

With this focus on estate asset management structures some effort had to be made to facilitate within the family a common vision and agreement about the purpose and probity of this approach in the personal estate planning of family members if the longevity of the strategy is embarked upon was to be assured.

Asset protection strategies

While the legislated creditor protection of superannuation was useful, asset protection strategies for John would need to be more sophisticated than just relying on contribution to superannuation and the use of family trusts in structuring family business ownership.

Key areas requiring decision remain:

'Managing the territoriality of the estate;

'Managing personal representation and succession;

'Managing family continuity;

'Examining to what extent family legacy planning might also be involved in the family's thinking;

'Managing client and family capacity changes;

'Managing estate claim risk;

'Managing current and future beneficiary vulnerability; and

'Mitigating the impact of taxation on estate administration and succession.

George and John now ask you to speak to their current lawyer and accountant (who also advise on tax) and develop a plan that includes their perspective on these issues and present one plan that deals with all the issues identified in a way the advisers consider most appropriate to the objectives of George and John. You are requested to identify any compromises or conflicts of interest between Winifred, George, John and Gail when delivering the advice and recommend an approach to resolving those conflicts of interest.

You deliver your plan that has the following key features:

'Testamentary trusts are used as the foundation structure for George, John and Winifred's wills.

'Gail's will is a simple direct gifting approach that allows US inheritance tax planning to occur for the interest of John and the children in Gail's estate.



'Life insurance is to be increased on John and Gail's life to provide additional funding for US inheritance tax obligations.

'Gail is excluded from a personal representation role.

'US inheritance tax planning for Gail and John.

'All executors, attorneys and guardians are to be located in Australia.

'Succession of management of trusts, companies and superannuation funds is to be integrated with the estate succession and administration strategies of the family.

'The administration of John's affairs should preserve his access to the small business superannuation rollover concessions for as long as those concessions are relevant to the business.

'A system of family group governance will be established to provide a foundation for family continuity planning and succession planning for family values, not just family capital.

'Migration focused options for reducing the tax load of the family estate operations would be evaluated by the family.

'You implement the plan in conjunction with the lawyer, accountant and tax advisers for the family.

'You establish a review cycle with George and John for the plan.

'You move on to start work developing the family group continuity planning.

'The family council is formed and a family group with a solid common vision about how they currently expect they will manage themselves for the next two to three generations has been established.

Michael Perkins has over 25 years' experience in trusts and estates practice and holds the TEP qualification from the Society of Trust & Estate Practitioners (STEP). He also lectures part-time at the University of Technology, Sydney, Faculty of Law in estate planning and is a co-author of Estate Planning: A Practical Guide for Estate and Financial Service Professionals (LexisNexis 2008).

Assessment – In search of the simple client

1. Which of these are key estate planning risk areas:

- a) Personal and family representation and succession;
- b) Business ownership and control;
- c) Wealth preservation, enhancement and transfer; or

d) All of the above.

2. What is the significance of Gail being a US citizen?

- a) She is taxed globally on her income and assets;
- b) She is liable for US inheritance tax on her global assets, and US inheritance tax can be levied on her Australian assets;
- c) US citizenship qualifies her children for US inheritance tax in addition to tax applicable under other citizenships; or

d) All of the above.

3. Which two of the following statements are true:

- a) There is an Australian Commonwealth/ Federal Succession Act;
- b) Property, trust and succession laws vary between states in Australia;**
- c) Comprehensive quantitative data is a prerequisite for conducting an estate review, and qualitative data is only an advantage; and
- d) Capital that qualifies for the superannuation small business rollover concessions is not protected absolutely from third parties claims through the business.**



4. Considering at the estate planning process, the assistance of a lawyer, accountant or tax specialist is required for which of the following:

- a) Identifying the issues;
- b) Gathering information about assets and liabilities;**
- c) Establishing the interests, priorities and goals of the client; or
- d) To periodically review the plan and adjust as necessary.

FPA CPD Assessor Review Notes

The key considerations for assessing this article are;

- The text is constructed to both provide and then respond to a case study. Readers are provided facts and then taken through the thought process and best practice approach according to the author who is a subject matter expert. There is limited use of jargon and sentence lengths distinguish the case study provided, key criteria to review, and the explanation/validity given to the response.
- Whilst the case study information is assumed hypothetical. The information pertaining to identifying the relevant 'issues' and the technical response, can all be considered 'critical reading' invoking a major degree of 'critical thinking' on the part of the reader. Critical Reading elements are highlighted in purple.
- There is strong relevance to the target audience who are financial planners or primarily in roles relating to financial planning and therefore faced regularly with similar scenarios.
- The assessment questions seek to reinforce understanding of the key points raised in the article (although the Assessor would recommend more questions could have been asked of the reader to check their understanding of the broader concept and process to undertake the review, identify and analyse the information).

This article would be assessed at 0.50 CPD hours which includes the standard conversion of the total words contained in the article divided by average words per minute and moderated to account for reviewer's comments above.

Calculation: 2198 words/225AWPM= 10 minutes. Rounded to 30 minutes based upon;

- The detailed information in the case study, the level of critical reading and associated elements below.
- Reflecting on the validity of the material in light of prior knowledge and understanding of the subject.
- Engagement of the reader to use a repertoire of active comprehension strategies, including prediction, analysing, question asking, image construction, and summarising.
- In account of the above, its probable readers will need to exercise more vigilance when reading through the material.
- The Assessor would recommend the article be read twice.