

Comparison of APES 210 with APS 11 and GN 2

APES 210 Forensic Accounting Services (FAS)		APS 11 Statement of Forensic Accounting Standards	GN2 Joint Guidance Notes Forensic Accounting	Comments
1	Scope & Application			
1.1	APESB issues APES 210	n/a	para 1	
1.2	APES 210 sets the standards for Members in the provision of quality and ethical Forensic Accounting Services (FAS).	para 1,4	n/a	APES 210 and APS 11 both limit the scope to the provision of "forensic accounting services". This is a defined term in each Standard.
1.3	Members to follow mandatory requirements of the standard	para 2, 4	n/a	APS 11 also makes comment about the standard being subject to disciplinary proceedings.
1.4	Members outside Australia to follow 210 where not prevented from so doing by local regulations & laws	n/a	n/a	
1.5	Members shall comply with the Code	Para 5	Para 5	APS 11 notes that professional independence in the Joint Code of Conduct applies to FAS. GN 2 also makes a reference to the Code.
1.6	The standard does not detract from obligations imposed on the Member by law or regulation	para 1	n/a	

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1.7	References to professional standards means to the relevant standards which may be amended from time to time.	n/a	n/a	
1.8	Members should be guided by the spirit of the standard and the Code.	n/a	n/a	
2	Definitions			
	Section 2	Section 3	Para 2,3	Definitions included in APES 210 are more extensive than that of APS 11 and GN 2.
3	Fundamental responsibilities of Members			
3.1	Comply with s100 of the Code and relevant law.	n/a	n/a	
	<i>Public Interest</i>			
3.2	Observe & comply with public interest obligations.	n/a	n/a	
	<i>Professional Independence</i>			
3.3	When engaged to perform a Forensic Accounting Service a Member shall be and be seen to be free of any interest which may be regarded as being incompatible with the fundamental principles of integrity and objectivity in Section 100 of the Code.	paras 5 - 8 refer to the Code of Professional Conduct	paras 19-24	APS 11 & GN2 discusses independence requirements in detail and the need for the Member to consider whether there are potential or actual conflicts. The sections of the Code referred to in APES 210 similarly discusses integrity, objectivity, independence and conflicts of interests.

APES 210 Forensic Accounting Services (FAS)		APS 11 Statement of Forensic Accounting Standards	GN2 Joint Guidance Notes Forensic Accounting	Comments
3.4	When engaged to perform a Forensic Accounting Service which requires Independence or purports to be independent, a Member in Public Practice shall comply with Section 220 Conflicts of Interest and Section 280 Objectivity – All Services and Independence in the Code.	As above	As above	As above
3.5	Member to consider if proposed Forensic Accounting Services will impair the Member's ability to provide Expert Witness Services with objectivity.	n/a	para 20,21	Para 20,21 discusses an Independent accounting experts responsibility to deal with conflicts that impact on their independence.
3.6	Expert witnesses are obliged to act with integrity and objectivity however there is no requirement to be independent. The Member should disclose to the Court any matters that would assist the Court to assess the degree of independence.	n/a	Para 22	Para 22 of GN2 discusses the fact that an independent expert may accept an appointment where there is an perceived conflict provided appropriate disclosure is made to the court and all parties acknowledge the disclosure and consent to the appointment.

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	<i>Professional Competence and Due Care</i>			
3.7, 3.8	Members shall maintain professional competence and take due care in accordance with s130 <i>Professional Competence and Due Care</i> of the Code.	paras 9-11 refer to skill and competence requirements. paras 13-14 refer to reasonable care requirements.	Para 17	APS 11 specifically discusses the need for work to be critically reviewed at every level. This is effectively covered by reference to s130 of the Code. GN2 discusses the need to have appropriate expertise to undertake an engagement.
3.9	Where matters are outside the Member's expertise, the Member is to seek expert assistance or decline the service. Extent of reliance on 3rd parties to be disclosed in any reports.	para 12	para 18	APS 11 and GN2 discusses the need to engage other experts when a matter falls outside the member's expertise.
3.10	If an Expert/Lay Witness bases their opinion on the work of another expert, the Witness shall treat that work as an assumed fact.	n/a	n/a	

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	<i>Procedural fairness and compliance with laws</i>			
3.11	When acting as an investigator or a decision-maker, the Member may be required to observe the rules of procedural fairness.	Para 24	Para 7,8	APS 11 and GN 2 discusses the obligation on the member to comply with the law and various guidelines imposed by federal and state jurisdictions.
3.12	Members should be aware of laws and regulations that govern filming and recording of individuals.	n/a	n/a	
3.13	Member should consider whether a license is required for an investigation service.	n/a	para 6	
	<i>Confidentiality</i>			
3.14	Member to comply with s140 Confidentiality of the Code.	para 16 & 17	n/a	
3.15	Client information is not to be conveyed to third parties without the Client's permission, unless there is a legal duty to disclose.	para 17	n/a	
3.16	Information obtained for one purpose may not be used for another.	n/a	n/a	

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4	Professional Engagement Matters			
4.1	An engagement document is to be provided to the Client in accordance with APES 305 <i>Terms of Engagement</i>	para 15	Para 25	APS 11 requires only that reasonable care is taken to ensure the client has an understanding of the nature of the engagement. Para 15 of APS 11 is grey letter. GN2 discusses the need for the role to be defined and the scope and purpose of the work to be clearly set out. Reference is made to APS 2.
4.2	A Member is to comply with s210 <i>Professional Appointment of the Code</i> .	para 18	Para 22, 23	
5	Expert Witness Service			
5.1	If a Member in Public Practice is asked to provide an Expert Witness Service to a Client where the Member or their Firm is providing Forensic Services, the Member shall consider whether the proposed service would impair the ability to provide the Expert Witness Service with objectivity.	para 6	para 16, 21 & 22	Para 6 of APS 11 states that the Member should decline or withdraw from an engagement when a conflict of interest arises.

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5.2	If a Member in Business is asked to provide an Expert Witness Service to a Client where the Member or their Firm is providing Forensic Services, the Member shall consider whether the proposed service would impair the ability to provide the Expert Witness Service with objectivity.	n/a	n/a	
5.3	The Member shall decline the engagement if they believe their objectivity would be impaired.	para 6	para 16, 21 & 22	Para 6 of APS 11 states that the Member should decline or withdraw from an engagement when a conflict of interest arises.
5.4	Members acting as Expert Witnesses shall comply with these obligations & duties:	n/a	Para 9-12, 7& 8	GN2 discusses the Member's role as an independent accounting expert. This is now described as expert witness services in APES 210.
	a) have a paramount duty to the Court which overrides any duty to Client or Employer	n/a	Para 7 & 10	
	b) duty to assist the Court on areas relevant to the Member's expertise in an objective and unbiased manner.	n/a	Para 9-12, 7& 8	

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	c) to not be an advocate for a party	n/a	As above	
	d) comply with Court's guidelines relating to Expert Witnesses	n/a	As above	
	e) make it clear to the Court where a particular question or issue falls outside of the Member's expertise.	n/a	As above	
5.5	Members acting as Expert Witnesses are to prepare a report. Section details the required contents of Expert Witness reports.	n/a	Para 39,46,48	APES 210 and GN 2 contain the same requirements with the exception that APES 210 also requires the disclosure of relationships the Member has to any of the involved parties to the dispute that may create a threat or a perceived threat to the Member's obligation to comply with the fundamental principles of the Code [or Member's primary duty to the Court] and any appropriate safeguards implemented.
5.6	In providing an Expert Witness Service, Member to consider whether APES 225 <i>Valuation</i> is also applicable	n/a	n/a	

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5.7	Members are referred to Appendix B for guidance on Opinions, Facts and Assumed Facts. If unsure, the Member should consider consulting the legal representative of the Client or Employer.	n/a	n/a	
6 Lay Witness Services				
6.1	When providing such services, the Member shall comply with the Member's paramount duty to the Court.	n/a	n/a	
7	False or misleading information and changes in opinion.			
7.1	Shall not make statements that are false or misleading in a material manner.	para 19	n/a	APS 11 requires that the Member not be associated with a report that contains misleading information.
7.2	Where a report is based on misleading information, inform the legal representative of the Client or Employer. Also consider whether to issue a supplementary report.	para 20	Para 43, 44	Whilst APS11 and GN 2 discuss reporting requirements when opinions change, there is no specific requirement to inform legal representatives.
7.3	If a Member makes a statement under oath known to be false or misleading, the Member may be liable to criminal charges or disciplinary proceedings.	n/a	n/a	
8	Quality Control			

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8.1	Comply with APES 320 <i>Quality Control for Firms</i>.	para 21,22	n/a	
8.2	A Member in business needs to establish an appropriate system of quality control	n/a	n/a	
8.3	Prepare working papers in accordance with the requirements of the standard.	para 22	n/a	APS 11 also states staff are proficient and have appropriate training. This is covered in APES 210 by way of para 3.6 and its reference to s130 of the Code.
8.4	Working papers will be used as evidence and the need to maintain the chain of custody.	n/a	para 36-38	GN 2 discusses the need to have adequate documentation and the integrity of the documentation. The chain of custody para was included based on the Canadian standard.

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9	Professional Fees			
9.1	Remuneration in accordance with s240 <i>Fees and Other Types of Remuneration</i> of the Code.	para 25 to para 27	para 26	
9.2	Shall not enter into Contingent Fee Arrangements for Independent services.	para 26	para 27,28	APS 11 does not use the term contingent fees but refers to "the outcome of a matter or the amount of the damages awarded". GN2 states that fees are not to be charged on a contingent fee basis.
	Conformity with international pronouncements			
	There is no international equivalent.	n/a	n/a	
Appendix A - Description of Forensic Accounting Services				
	Discusses various ways that Forensic Accounting Services may be described and provides examples of such services.	n/a	n/a	
	<i>Expert Witness Services</i> Discusses what such services involve.	n/a	n/a	
	<i>Lay Witness Services</i> Discusses what such services involve.	n/a	n/a	
	<i>Consulting Expert Services</i> Discusses what such services involve.	n/a	para 13,14,15	

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	<i>Investigation Services</i> Discusses what such services involve.	n/a	n/a	
Appendix B - Opinions, Facts and Assumed Facts				
	Discusses what is an opinion, fact and assumed fact. Then provides examples of how work done by a Member may be characterised.	n/a	n/a	
Other Areas in APS 11 or GN 2 not addressed in APES 210				
	n/a	n/a	Communications & Meetings (para. 30,31)	GN2 discusses the need to take care when recording information and consider recording dates when information is received.
	n/a	n/a	Basis of fees to be disclosed - Para 29	This was aimed at preventing members performing expert witness services for contingent fees and as APES 210 prohibits contingent fee arrangements this provision is no longer required (compared to the guidance note GN2)
	n/a	n/a	Draft Reports (para. 40- 42)	GN 2 discusses potential use of draft reports in Court and also the need for changes in opinion to be appropriately documented and supported.

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	n/a	n/a	Visual Aids (para. 49)	GN2 suggests the use of visual aids and APES 210 discusses the use of charts in presenting information. The need to consult with the client on the best method of presentation is not covered.
	n/a	n/a	Declarations & Ongoing Obligations (Para 47 & 50)	Members are referred to other declarations that may be required by Court rules.
	n/a	n/a	Appendix 1- Conference of Independent Accounting Experts	Discusses the report on ALRC's four year review of the Federal civil justice system and relevant recommendations
	n/a	n/a	Annexure A - Meeting agenda	Provides a template for a meeting Agenda
	n/a	n/a	Para 32-33	GN2 para 32,33 discusses documents to be relied upon and the need for the member to consider the reasonableness of the information.
	n/a	n/a	Para 34	Member to consider whether assumed circumstances presented are reasonable and realistic.