

FVA Code of Ethics

for Certified Experts
Forensic Vocational
Assessment

Australian Society of
Rehabilitation Counsellors



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Preamble

This Forensic Vocational Assessment (FVA) Code of Ethics applies to professionals who have:

1. successfully passed all requirements of the Australian Society of Rehabilitation Counsellors Ltd. (ASORC) Forensic Vocational Assessment (FVA) Certification Program.
2. verified to ASORC that they are bound by their discipline-specific Code of Ethics as well as the Expert Witness Code of Conduct, and the FVA Code of Ethics.
3. been conferred the designation of Certified Expert Forensic Vocational Assessment (CEFVA).

The term ***Certificant*** is used throughout this document when referring to the FVA practitioner who gains CEFVA certification and maintains currency of renewal status.

The term ***Claimant*** refers to the subject of the FVA.

A Glossary of terms used within this document and in FVA settings is available in Appendix B.

This *FVA Code of Ethics*, henceforth referred to as the '*FVA Code*', outlines aspirational principles and enforceable rules to direct Certificants in their professional practice and to inform the public.¹

The FVA Code is based on the ASORC Code of Ethics and informed by the forensic ethics of the American Board of Vocational Experts (ABVE). **Insert hyperlink to the ASORC & ABVE Code of Ethics.*

General Principles

An FVA report is written to assist a court, tribunal, or administrative decision-maker in coming to an appropriate decision about the vocational capacities of a Claimant.

When providing an FVA report, the primary obligation of Certificants is to produce objective findings that can be substantiated based on information and techniques appropriate to the FVA.

Certificants must define the limits of their reports or testimony, especially when an examination of the Claimant has not been conducted.

The FVA Code is designed to guide the accomplishment of each FVA undertaken. Certificants must demonstrate adherence to the ethical standards of their respective professional disciplines, the judicial Expert Witness Code of Conduct, and to ensure that the FVA Code is applied.

Certificants should be committed to professional respect for the people with whom they work.

Objective of the FVA Code

The objective of the FVA Code is to promote the public welfare and to serve as a guide by specifying the standards of ethical practice and behaviours expected of Certificants. Accordingly, the FVA Code consists of two parts:

Standards

Standards are aspirational principles which reflect the established processes and practices appropriate for the conduct of an FVA. They set out accepted models of exemplary professional conduct with general concepts or principles from which more specific Rules are derived.

¹ The FVA Code continues in operation subject to any amendment made from time to time by the ASORC FVA Certification Ethics Panel.

Rules

Rules for ethical professional conduct are more exacting, in that they provide guidance to Certificants in specific circumstances, which may be enforceable.

1. Legal Compliance

Standard

Certificants, in their professional practice, should:

- (a) act in an ethical and moral manner, in line with general community norms; and
- (b) avoid actions which cause, or could reasonably cause, harm to others or bring disrepute to the FVA sector.

Certificants must remain personally responsible and liable for their professional conduct. A situation of immediate risk or harm to the claimant takes precedence over any self-interest or the interests of a third party.

Rules

1.1 Certificants must obey the statutes and regulations (Laws) in the jurisdiction in which they practice. This also applies to insurance schemes' policies, terms, and conditions.

1.2 Certificants must not engage in any act or omission that is dishonest, deceitful, or fraudulent in nature during the conduct of their professional activities.

1.3 Certificants must not allow the pursuit of financial gain or other personal benefit to interfere with the exercising of sound professional judgement and skills.

1.4 Certificants must not abuse their relationships with claimants or others to promote personal or financial gain or the financial gain of their employers or others.

1.5 Certificants must avoid conflicts of interest which could impair their professional judgement or increase the risk of exploitation.

1.6 Certificants do not advocate for, or attempt to preserve the interests of claimant, insurer, or lawyer, or any other party in the legal matter.

1.7 In accordance with anti-discrimination legislation, Certificants must not discriminate against any Claimant in any legislated respect, including, but not limited to age, sex, gender, race or religion.

1.8 Certificants must safeguard the maintenance and storage of all Claimant records in accordance with required legislation or for a minimum of seven years (whichever is the lesser period). Certificants must safeguard and dispose of information so that unauthorised persons shall not have access to any information. All persons who have access to these records should be briefed concerning the confidentiality standards and obligations to be observed in line with applicable legislation.

1.9 Certificants may have a legal obligation to report alleged or potential criminal acts of, or committed on, a Claimant. If the Certificant believes that information provided to them may constitute a crime, and the information may be required to avoid or minimise serious or imminent harm, Certificants are obliged to report the matter to the appropriate authority.

2. The Claimant

Standard

For the purposes of the FVA, the Certificant has no client. The ultimate role of the Certificant is to communicate the truth of the FVA to the referring party.

Should a Certificant be required to interview and/or provide testing services, the Certificant, when working directly with a Claimant must cultivate an atmosphere of trust, confidentiality, and honesty.

Rules

2.1 Upon referral, Certificants must immediately advise the referrer or their employer of any prior social or personal relationship or conflict of interest in regard to a Claimant and immediately disengage themselves from further Claimant communication until the issue is resolved.

2.2 Certificants must at all times have regard for the safety, welfare, and security of the Claimant within the interview or testing environment.

2.3 Certificants must be thoroughly familiar with and discuss the scope and limitations of their services with Claimants to facilitate honest and open communication and realistic expectations.

2.4 Certificants must maintain respect for a Claimant's dignity, values, lifestyle, attitudes, culture, or beliefs and provide services that are appropriate to that Claimant.

2.5 Certificants must not misrepresent their role or expertise.

2.6 Certificants must not continue to provide professional services beyond those services that are necessary or effective for adequately meeting the stated referral instructions.

2.7 At the commencement of contact, Certificants are required to obtain the Informed Consent of a Claimant to release information unless otherwise provided by the referral customer.

2.8 Certificants must inform Claimants of the limits to confidentiality applying to the relationship and the information shared as a result.

2.9 Certificants must collect and release Claimant information relevant to delivery of the FVA services contracted to be provided.

2.10 Certificants must make and keep adequate records which present relevant data and make every effort to avoid undue invasion of privacy.

2.11 If Claimants require referral to services beyond the Certificant's area of professional expertise or scope of practice, the Certificant should include recommendations within the relevant section of their FVA report. In circumstances where a claimant is identified as being in immediate danger of harm, they should be provided with advice to make contact with the relevant authority or service providers to ensure their safety. For example, 000 emergency services; Lifeline; 1800 RESPECT, or 1800 VETERAN.

2.12 Certificants must not solicit fees, favour, or gratuity directly from Claimants for FVA services which have been commissioned by a referral customer.

2.13 Certificants must provide written disclosure and obtain a Claimant's informed consent prior to any professional services. Verbal informed consent for recorded conversations is to be obtained in two parts:

(a) A verbal notification from the Certificant to the Claimant that a verbal consent is required to proceed with recording, to which the Claimant may either give consent or decline consent (and if declined, the Claimant is then called on a line that is not recorded); and

(b) Having given provisional verbal consent to be recorded, the recording is commenced and a consent authority is read with a prompt to the Claimant to again confirm their informed verbal consent to the recording and documentation of that consent in the FVA report. Verbal consent should form part of all call recordings and documented on the Claimant's record.

3. Claimant's Employability

Standard

Certificants adequately and objectively assess a Claimant's capabilities and limitations and provide opinions and recommendations accordingly.

Rules

3.1 Certificants refrain from recommending Claimants for work if:

- (a) the Claimant is not competent (physically, psychologically or cognitively) to perform, or
- (b) the Claimant is not qualified for, does not possess the transferable skills to perform, or is not within a reasonably accessible labour market, or
- (c) working in an illegal activity, or
- (d) detrimental to the health and safety of the Claimant or fellow workers.

3.2 Certificants must rely on a script to guide conversation with prospective employers or organisations with industry or labour market knowledge.

3.3 Certificants must protect the privacy of the Claimant when discussing potential work with employers or other third-party contacts. Identifying characteristics such as medical condition, specialist training or skills, or location of employment should be omitted.

3.4 Certificants must protect the privacy of an employer or other third-party contacted when gathering information. The identity of any such contact must not be included in the FVA report. Identifying information arising from third-party contact must be documented and securely retained.

4. Psychometric Testing

Standard

Certificants recognise the limits of their competence and perform testing and evaluation services for which they have been trained. They provide quality evaluations through use of valid and reliable instruments and best practice techniques.

Rules

4.1 Certificants are responsible for the appropriate selection, administration, scoring, interpretation, and use of assessment instruments, whether they score and interpret such tests themselves or use computerised or other services.

4.2 Certificants report accurate information about the test instruments administered and subsequent results. Certificants refrain from using results to make appropriate inferences.

4.3 Certificants identify any reservations regarding the validity or reliability of the test conducted and provide reasonable perspective on relevant factors such as the age, culture, disability, ethnicity, or sexual orientation of the claimant.

5. Maintenance of Professional Competence

Standard

Certificants are responsible and accountable for ensuring they achieve and satisfy the competencies required of ASORC FVA Certification Program Certificants. This includes Continued Professional Development (CPD), contribution to the profession, and development of other FVA professionals.

Rules

5.1 Certificants must strive, through CPD, to keep abreast of new developments and evidence-based best practice and embed these into service provision where appropriate.

5.2 Certificants must record and evidence the level of CPD that is required to maintain FVA renewal certification.

5.3 Certificants must initiate or engage in formal and informal training and development opportunities through ASORC and other professional organisations.

5.4 Certificants must refrain from assessing and/or commenting on factors outside of their professional competency.

5.5 Using a lifelong learning approach, Certificants must contribute to the development of the profession by supporting and/or formally mentoring fellow Certificants and other FVA professionals.

5.6 Certificants must actively seek practice review and feedback and respond accordingly.

5.7 Certificants must refrain from offering or undertaking the work that they have been commissioned if it is beyond their professional competence and qualifications.

5.8 Certificants should take all possible action to avoid such situations which potentially compromise the Certificant, the Claimant, the Certificant's employer, any involved agency, or the professional practice of FVA in general.

6. Professional and Peer Conduct

Standard

Certificants must engage in professional and respectful relationships including collegial generosity in the context of mutual trust.

Rules

6.1 Certificants must make clear to involved parties the purposes, goals, and parameters of the commissioned FVA.

6.2 Certificants are to encourage and support professional FVA colleagues to observe the Standards and Rules of these FVA Code.

6.3 Certificants must provide support and share resources with other Certificants to enhance overall effectiveness of FVA's and contribute towards continuing professional development for Certificants.

6.4 Certificants must not disseminate information or participate in activities which must or have the potential to erode the occupational status or reputational damage of the FVA professional sector.

6.5 Certificants must actively foster a culture of quality and learning through engagement with other health and legal professionals to share knowledge and practice with an overall aim of quality improvement of FVA and continued professional development.

6.6 Certificants must report notifiable conduct of other FVA professionals in a frank and fearless manner.

6.7 Certificants must not provide FVA services when (a) the Certificant is under the influence of drugs or alcohol; or (b) when the Certificant's judgement or decision-making is impaired for any reason.

6.8 Certificants must avoid public actions which compromise the fulfilment of their professional responsibilities or reduce the public trust in or image of ASORC FVA Certification.

Breach of the FVA Code and Disciplinary Action

ASORC reserves the right to self-regulate and to reprimand, suspend, or revoke certification in response to any complaint or circumstance that identifies and evidences a breach of the FVA Code. Circumstances—which are by no means exclusive—that may lead to such action is set out in Appendix A.

There is a documented procedure for Certificants and third parties to complain about a Certificant's conduct as constituting a breach of the FVA Code. Once the procedure is invoked, the review process (and any resulting disciplinary action) is undertaken by the ASORC Ethics and Complaints Committee.

Where there is reason to consider a Certificant's conduct under ASORC's complaints and disciplinary process, the Certificant should refrain from engaging in that behaviour until the conduct has been considered by the ASORC Ethics and Complaints Committee.

Appendix A - Complaints Procedures

Source of Complaints

The information leading a Certificant to consider invoking the FVA Code may come from a variety of sources. For example:

- (a) A consumer of FVA services approaching a Certificant, asking for advice or information on procedures for redress for what they perceive as unprofessional or unethical behaviour by a Certificant.
- (b) A Certificant of another professional body expressing concern about interdisciplinary ethics or practice involving a Certificant.
- (c) A Certificant personally observing, or otherwise becoming aware of, behaviour by another Certificant which appears to contravene the FVA Code.
- (d) An employer requiring a Certificant to perform professional duties or to handle data in a way which may contravene the FVA Code.
- (e) Self-disclosure by a Certificant.

Action required concerning a Certificant

In circumstances where a Certificant has factual knowledge of, or reasonable grounds for believing that, a provision of the FVA Code has been or is being violated, it is the Certificant's professional responsibility to contact ASORC for advice on applying the FVA Code and what further action by the Certificant may be appropriate in the circumstance.

After advice from ASORC, it may be appropriate for the Certificant to:

- (a) Approach the Certificant in a professional manner, drawing attention to the actions thought to be in breach and quoting a section(s) of the FVA Code which apply; and
- (b) Submit the matter in writing to the ASORC Ethics and Complaints Committee.
Depending on the circumstances, if the Certificant admits to behaviour which contravenes the FVA Code and agrees to cease such violation, the matter may still be referred to the ASORC Ethics and Complaints Committee for review.

Action required when assisting a member of the Public

Where a Claimant of FVA services or another person asks for advice or action to obtain redress (a Complainant), rather than enquiring into the circumstances and becoming a party to the complaint, a Certificant, should advise the Complainant to contact ASORC to confirm that the person providing the rehabilitation counselling services is a Certificant of ASORC. If it is confirmed that the person is an ASORC FVA Certificant, the Complainant can complain in writing directly to ASORC.

Cooperation in processing Complaints

It should be recognised that it is in the interest of Claimants, Certificants, and the professional practice of FVA services that complaints be dealt with promptly.

Certificants are required to respond to any requests from ASORC within 14 days. Long delays or failure to respond to requests from ASORC could be considered unprofessional conduct.

Appendix B – Glossary of terms

Advocacy

The ability to speak or act on one's own behalf.

Beneficence

To do good to others.

Certificant

An FVA practitioner who has passed ASORC Certification Program and awarded Certified Expert Forensic Vocational Assessment (CEFVA) and maintains currency of renewal status. May also be known as a certified expert in FVA or an FVA expert.

Claimant

Refers to the subject of the objective and unbiased FVA. Invariably, the claimant is the person claiming compensation, the person with the disability. May also be known as the *evaluee* or the *assessee*.

Conflict of interest

A situation in which the concerns or aims of a Certificant and any other party is incompatible.

FVA

The acronym FVA is used throughout the program and to refers to Forensic Vocational Assessment. FVA may also be known as a medicolegal, employability, earnings, suitable employment, or work capacity assessment.

Informed consent

Where an individual fully understands the proposed nature of the services, including any risks involved and consents to their participation.

Jurisdiction

The Commonwealth of Australia or the state or territory in which a Certificant is providing an FVA service.

Legal rights

Rights protected under laws and statutes of the Commonwealth of Australia, or of the state or territory in which a Rehabilitation Counsellor is rendering a service.

Referrer

The Referrer is the individual or company who refers the case for the FVA service. This may be a lawyer, an insurance company, a rehabilitation service provider, the court, or another source.

Rights

Refers to the universal human rights as defined by the United Nations Universal Declaration of Human Rights. This incorporates rights that may or may not be fully protected by existing laws.

Schemes

Schemes refer to various Australian compensable settings or insurance systems in which FVA is used (e.g., workers' compensation, motor vehicle accident, veterans' affairs, and life insurance).

Appendix C – Codes of Ethics

1. ASORC Code of Ethics link:

<https://www.asorc.org.au/about/professional-standards/code-of-ethics>

2. RCAA Code of Ethics link:

<https://www.asorc.org.au/about/professional-standards/code-of-ethics>



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