



# Procedure: Workers' compensation beneficiary trust accounts

## Purpose

The Australian National University is a Licensee under the *Safety, Rehabilitation & Compensation Act 1988* (Cth) (**SRC Act**) for the purposes of workers' compensation and vocational rehabilitation. The purpose of this document is to outline the procedure for the management of benefits payable to a current or previous staff member who is under a legal disability, where required, pursuant to Section 110 the *SRC Act*. This procedure is linked to the University's [Rehabilitation and Compensation Policy](#).

## Definitions

**Beneficiary** is the person for whose benefit a trust account is established.

**Legal disability** is the lack of competent physical and mental faculties; the absence of legal capability to perform an act or being under the age of 18.

Relevant authority has the meaning given to it under the SRC Act.

**Trust account** is an account that holds property for the benefit of the Beneficiary.

## Procedure

### Scope

1. This procedure applies to all current and previous staff members (claimant) of the University, who have an accepted workers compensation claim which the University is liable for under the provisions of the SRC Act.

### Overview

2. Section 110 of the *SRC Act* sets out the requirements of Licensees for the payment of monies for the benefit of a workers compensation claimant who is under a legal disability:

- Where any money is payable under the SRC Act to a claimant who is under a legal disability, the money shall be paid to, or in accordance with the directions of, the

relevant authority for the benefit of the claimant and, when so paid, shall, for the purposes of the SRC Act, be deemed to have been paid to the claimant.

- Where money is held by a relevant authority under the SRC Act for the benefit of a claimant, the relevant authority shall, subject to subsections (3) and (4) of section 110, invest the money in any manner for the time being allowed by an Act, a State Act or an Ordinance of a Territory for the investment of trust money and income resulting from any such investment shall be deemed to form part of the first-mentioned money.
- A relevant authority may pay any money referred to in subsection (2) of section 110 to, or in accordance with the directions of, the claimant or apply the money in such manner as it thinks fit, for the benefit of the claimant.
- Where money is held by a relevant authority for the benefit of a claimant who is under a legal disability, the relevant authority shall, when the claimant ceases to be under a legal disability, pay the money to, or in accordance with the directions of, the claimant or, if the money has been invested, deal with the investments in accordance with the directions of the claimant.

### **Establishment of a trust account**

3. Where the University or the University's third party claims administration agency (Comcare) has issued a determination which results in a payment of a lump sum monetary benefit to a claimant who is under a legal disability, the University will appoint an external agency which provides professional trust administration services (external agency) to invest the money and hold in trust for the claimant in accordance with section 110 of the SRC Act.

4. The choice of this external agency will be in accordance with the University [procurement guidelines](#), and must meet regulatory guidelines and professional standards for trustees.

5. Where a lump sum money payment is to be paid into a Trust Account by the University, the external agency will be contacted as soon as practical to commence the arrangements. The University delegate (claims services officer) and the external agency will then make decisions on how best to manage the money for the benefit of the claimant in accordance with section 110 of the SRC Act.

6. It is not expected that payment of money into a Trust Account will be a regular occurrence for the University and it is therefore necessary for the delegated claims services officer of the University to contact the Finance and Business Services (F&BS)

Operations area, and the University Legal Office (ULO) ANU, to ensure currency of process and update this procedural document accordingly.

7. The expectation of the external agency performing these tasks, is that they must invest the money in a manner allowed by an Act, State Act or Territory Ordinance for the investment of trust money, and comply with all relevant reporting and auditing requirements.

8. The external agency's role in relation to managing the Trust Account may include any or all of the following tasks and duties:

- Developing an investment strategy for the trust funds and reviewing this annually. This may include a duty to invest trust funds in investments that are not speculative and do not have a high level of risk;
- Making decisions about requests for trust funds, and ensuring all expenditure is for the benefit of the staff member;
- Acting in what the external agency considers to be the best interests of the claimant;
- Keeping proper accounts for all aspects of the Trust Account; and
- When the claimant ceases to be under a legal disability, paying all monies held in the Trust Account to, or in accordance with the direction of, the claimant, or if the money has been invested, deal with the investments in accordance with the directions of the claimant.

9. The external agency managing the Trust Account, will lodge a 'Trust Tax Return' for the Trust Account every year, utilising the Trust's Tax File Number.

10. The external agency will send each Beneficiary an annual Beneficiary statement detailing distribution of income from the Trust Account.

### **Beneficiary trust account payments**

11. Funds held in trust for a claimant under a legal disability are subject to the direction of delegated claims services officer within the University. Where a claimant wishes to access funds, he/she must speak to the claims services officer, who can help prepare an application for access to funds through the external agency.

### **Sources**

#### **Legal and other requirements**

*Work Health and Safety Act 2011(Cth)*

*Work Health and Safety Regulations 2011 (Cth)*

*Safety, Rehabilitation and Compensation Act 1988 (Cth)*

## Document information

Title	Workers' compensation beneficiary trust account
Document Type	Procedure
Document Number	ANUP_018025
Version	4
Purpose	The purpose of this document is to outline the procedure for the management of benefits payable to a current or previous staff member who is under a legal disability, where required, pursuant to Section 110 the SRC Act. This procedure is linked to the University's Rehabilitation and compensation policy.
Audience	Staff
Category	Administrative
Topic	Health, Safety & Environment
Subtopic	Occupational Health & Safety
Effective Date	1 Oct 2021
Review Date	30 Sep 2024
Responsible Officer	Chief People Officer
Approved By	Chief Operating Officer (COO@anu.edu.au)
Contact Area	Human Resources Division (director.hr@anu.edu.au)
Authority	Safety, Rehabilitation and Compensation Act 1988
Printed On	22 Sep 2023

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