

A common sense approach to Client Money Management

One of the major characteristics of the legal profession is the unique relationship of trust created when a client briefs a lawyer. This is particularly evident when one considers the substantial sums of money that are entrusted to individual lawyers (and the profession as a whole) because of the honor and esteem that the profession enjoys in the eyes of most people. The overwhelming majority of lawyers, like the overwhelming majority of people generally, are honest, hardworking and committed to the welfare of their clients. However, unlike other vocations, when a lawyer fails to meet professional standards, the profession itself, and the mass media in particular, are particularly severe.

It is the role of professional associations like Law Societies and Bar Councils to put rules in place to ensure that members of the profession have clear guidelines to follow when handling client money. Law alone however, cannot create compliance. It is the responsibility of every sole proprietor, Partner and Director of a law practice to ensure that sound business processes are in place to minimise the risks associated with handling funds on behalf of clients.

The four inviolate principles that govern a diligent approach to Client Money in all its forms are: -

- Written records must be kept;
- The records must disclose the true position;
- Records must be auditable;
- Records must be up to date.

You should ensure that these become part of the culture of your practice, not just compliance requirements.

It is difficult for a busy principal to devote sufficient time to checking the detail. Effective risk management calls for established routines as well as random checks and audits. You should create an appropriate Risk Management Plan for your firm that takes all the unique characteristics of your practice into account. Knowing the areas of risk and periodically visiting them in your practice will go a long way to creating a culture of client care and low risk. Some of the items on the checklist should be built into regular business processes. Others may be more satisfactorily dealt with as "spot checks". Some are genuine "to do" items, others provide warning signs of possible irregularities. The items on the checklist are not given in any particular order.

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Client Money Risk Management Checklist

Checklist

The Bank Reconciliation.	Essential for your Client Money and Office account. It should be reconciled regularly (monthly at a minimum). If not, you should immediately introduce new skills and routines.
Ledger account debit balances.	These are most frequently caused by transactions not being posted to the ledgers. They should be investigated immediately and processes put in place to keep entries current
Lengthy delays in correcting debit balances.	These are normally caused by a failure to complete month end balancing requirements but if prolonged, would be a definitive cause for deeper investigation.
Late banking of client's account receipts.	Rules for daily banking should be rigidly enforced and any exception rigorously investigated.
Drawing against uncleared funds.	This can of course happen in anticipation of receiving a contra payment on the same day. Any imbalance that has existed for more than 48 hours should be investigated immediately.
Substantial Investments made on behalf of family members.	Sometimes extraordinary levels of trust can result in lapses in diligence. All family transactions should be closely monitored.
Telegraphic transfers.	These should be regularly checked. Make it a habit to audit/enquire about each one on your bank statement.
Old ledger balances.	Why do they exist?
Insufficient information recorded in the source documents.	What is missing and why? Is there a pattern? Remember, records must disclose the true position.
Insufficient information recorded in the cash book, journal and ledger.	A sign of danger. Follow up immediately on any transaction not properly documented.
The use of a "Suspense Account".	Every transaction, particularly withdrawals must be very carefully documented.
The use of a "Costs Clearing Account".	Every transaction, particularly withdrawals must be very carefully documented
Monthly reporting requirements.	Check that all procedures are being followed diligently.
Trust ledger out of balance	If this happens it should be investigated until it is resolved.
Client file being archived from the system without all balances being cleared and paid out.	Should not be possible with a good accounting application, but is a real area of risk for firms with manual books of account.
File being archived without a Client Money Statement being produced.	A warning sign.
Failures to complete system back up procedures in accordance with suppliers' recommendations.	The interests of your clients and your practice are at risk if this is happening.
Failure to test the restore and data verification functions of the computer system.	A vital additional check.
Law practice/lawyer borrowing from a deceased estate / from clients.	Very dangerous and should be forbidden in any practice. <i>Note-Our rule against borrowing from clients under rule 33 Professional Conduct Rules 1998.</i>
Cash trust cheques	By whom/ Why? When?
Delays in making deposits to the trust bank account.	Investigate
Delays in winding up Deceased Estates.	Investigate
Documents to support a transaction not available.	Investigate
Failure to deliver bills of cost to clients.	Investigate
Failure to send regular trust statements.	Investigate

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Insufficient detail recorded in trust records especially the source of funds and reason for transaction.	Investigate
No fees charged to client.	Why?
Journal transfers with insufficient reason.	Investigate
Payees of trust cheques different to payees as per trust records.	Investigate
File closed without a bill.	Investigate
Trust entries out of chronological sequence disguising deficiencies.	Investigate
Unauthorised fee write offs	Investigate
Unauthorised journal entries.	Investigate
Unexplained payments from trust.	Investigate