

If the money is transferred by client to the office account: The firm must promptly allocate client money element into client account.

If client transfers a mixed payment to client account: The firm must promptly allocate the office money element to the office account – again leaving office money in with client money for a short while. The law firm is not in breach of the rules if it pays office money into client account (and vice versa) this way.

OTHER RULES:

Solicitors must keep accounting records for client money: law firms must obtain bank or building society statements min. every five weeks and must carry out reconciliations between the bank statements and the firm's own records.

A law firm must "keep readily accessible a central record of all bills or other written notification of costs" that they have sent to clients.

Accountants' Reports:

Firms have to obtain an independent accountant's report and deliver it to the SRA.

If a law firm has not carried out client account bank reconciliations, this is likely to lead to the accountant having to submit a qualified report.

There is a prescribed form for the accountant to use to prepare their report on a law firm.

Record-keeping: Firms must retain all "accounting records" for at least 6 years but client's instructions in relation to holding client money must only be retained if they don't comply with the Rules.

Joint accounts:

Joint accounts are **not** client accounts, but **money held in a joint account will still be client money.**

The nature of a joint account means that it cannot be a client account as the account would not be in the sole name of the solicitor or the firm.

Having a joint account allows you and another person to operate and manage the account and the money in it. Joint accounts might be operated by you with the client, another law firm or a third party.

Those named on the joint account will have equal access to the account. The risks to a client's money could, therefore, be higher.

Relevant rules:

- You must make sure that you **safeguard money and assets entrusted to you by clients and others.**
- Obtain, at **least every 5 weeks**, statements from banks, building societies and other financial institutions for all joint accounts held or operated by you.
- Keep readily accessible a central record of all bills or other written notifications of costs given by you.

Third-party managed accounts (TPMA):

These can be used as an alternative to client accounts. Money held in a TPMA does not fall under the definition of client money.

Make sure that the TPMA provider is regulated by the Financial Conduct Authority.

The TPMA provider must be:

- An authorised payment institution
- A small payment institution which has adopted voluntary safeguarding arrangements to the same level as an authorised payment institution
- OR
- An EEA authorised payment institution.

Make sure that you have taken reasonable steps to ensure that the client understands the arrangement, before the agreement is entered into.

They should understand:

- **How their money will be held** and how the transaction will work.
- Their **right to terminate** the agreement
- Their **right to dispute** payment requests made by you
- Who will be responsible for costs associated with the agreement
- That the TPMA is regulated by the FCA and that complaints about the TPMA provider should be made to that provider in accordance with their complaints procedure
- That the regulatory protections that apply to TPMAs are different to those that apply to client money held in a firm's client account.

You must have in place effective governance structures, arrangements, systems and controls to ensure your business and employees comply with our regulatory arrangements.

Accounts Revision Guide Notes

VM Jensen



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