

CILEx ACCOUNTS RULES

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1. Authority and Interpretation

1.1 Responsibility for the application and administration of these Rules is delegated by CILEx to CILEx Regulation.

1.2 A breach of these Rules may result in proceedings being instigated.

1.3 Definitions:

- *Account Period*: as defined in Rule 10;
- *Accounting Records*: as defined in Rule 7;
- *Accountant's Report*: a statement from the Authorised Entity's Reporting Accountant to confirm compliance with these Rules as defined in Rule 10;
- *Authorised Entity*: a partnership (including a limited liability partnership), company or sole principal authorised by CILEx under the Legal Services Act 2007 to:
 - (a) carry on an activity which is a reserved legal activity; or
 - (b) provide immigration advice or immigration services;
- *Authorised Person*: has the same meaning as in Section 18 of the Legal Services Act 2007;
- *Client Account*: an account at a bank or building society in England and Wales in the name of the Authorised Entity and which includes in its title the words "Client Account". A Client Account may be an account pooling funds from more than one client or an account designated for a particular purpose;
- *Client Money*: money beneficially owned by anyone other than the Authorised Entity;
- *Designated Client Account*: a deposit or share account for money relating to a single client and which includes in its title "Client Account";
- *Guidance*: written guidance issued by CILEx Regulation and describing itself as Guidance on a given matter;

- *CILEx*: the Chartered Institute of Legal Executives;
- *CILEx Practitioner*: means a practitioner authorised by CILEx Regulation to provide one or more regulated legal activity;
- *Office Account*: an account at a bank or building society in England and Wales in the name of an Authorised Entity and which includes in its title the words "Office Account";
- *Office Money*: money beneficially owned by an Authorised Entity;
- *Reporting Accountant*: as defined in Rule 13;
- *Regulated Legal Activity*:
 - (a) a reserved legal activity within the meaning of the Legal Services Act 2007; or
 - (b) immigration advice or immigration services;
- *Regulated Practice*: any person or body regulated by an Approved Regulator under the Legal Services Act 2007 providing or offering to provide legal services including any Regulated Legal Activity; and
- *You and Your*: a CILEx member, CILEx Practitioner or an Authorised Entity.

2. Client Money

- 2.1 You must as soon as is practicable pay Client Money received into your Client Account and only into that account unless:
- 2.1.1 the client gives written instructions for the cheque or cash to be held as such for the client's own convenience; or
 - 2.1.2 the money received represents unpaid professional disbursements included in a payment of costs which may be paid into Office Account provided they are then disbursed within two working days.
- 2.2 You must use each client's money for that client's matter only.

- 2.3 Subject to rule 3.9 you may withdraw money from Client Account only upon the instructions of the client to whom the money belongs.
- 2.4 You may withhold money from Client Account on the written authorisation of CILEx Regulation. CILEx Regulation may impose a condition that you pay the money to a charity which gives an indemnity against any subsequent legitimate claim for the sum received.
- 2.5 You may transfer a client's money from Client Account to Office Account to settle that client's liability for costs incurred or disbursements paid by you in accordance with your terms of business and following the rendering of the relative account and/or written intimation to that client that the funds are to be transferred.
- 2.6 Nothing in these Rules deprives you of any legal recourse or right, whether by way of lien set off, counter claim or otherwise, against money standing in Client Account to the credit of the client against whom legal recourse or right is sought.
- 2.7 Regular payments from any body administering public legal aid funding must be paid into your office account. You must within 28 days of submitting a report to such a body, notifying completion of the matter, either pay any unpaid professional disbursements or transfer into a Client Account that sum equivalent to the amount of unpaid professional disbursements relating to that matter. Where such a body permits you to submit regular reports at various stages during a matter the provisions relating to unpaid professional disbursements apply to any such disbursements included in each report. Regular payments can be either standard monthly payments paid by the body under legal aid contracting arrangements or any other payments received from the body under an arrangement for payments on a regular basis.

- 2.8 You must maintain accurate and up to date accounts in accordance with these rules and any guidance issued by CILEx Regulation from time to time.
- 2.9 You must retain your ability to repay Client Money immediately unless the client agrees otherwise in writing.
- 2.10 In relation to matters which are publicly funded:
- 2.10.1 Payments received from any body administering public legal aid funding may be paid into Office Account with the written consent of that body provided that any payment in respect of unpaid disbursements must within 14 days of receipt either be applied to pay those disbursements or transferred to Client Account unless the payments are regular payments in which case Rule 2.7 applies.
 - 2.10.2 Payments received from any other party must be paid into Client Account and recorded in a ledger which notes any interest the body administering public legal aid funding has in such receipt.
 - 2.10.3 You may transfer any funds held on Client Account to which you are entitled after delivering to the body administering public legal aid funding a report comprising an up to date and comprehensive cash account in relation to the matter in question and an intimation of your intention to effect a transfer to Office Account indicating the amount of the proposed transfer.
 - 2.10.4 You must comply with your obligations to the body administering public legal aid funding including but not limited to any obligation to preserve that body's statutory charge.

3. Client Account

- 3.1 You must not pay any of your own money into Client Account except:
 - 3.1.1 when under a duty to do so imposed by these rules;
 - 3.1.2 any nominal sum required to open or maintain the account; or
 - 3.1.3 where a payment is made under rule 3.2.
- 3.2 You may pay into Client Account an advance from you to fund a payment on behalf of a client or controlled trust. This money becomes Client Money or controlled trust money. Rule 6 (interest) will not apply to that money.
- 3.3 You must ensure that funds are not overdrawn against a specific client on Client Account.
- 3.4 You must not effect any payments or receipts through Client Account unless those payments and receipts are incidental to the provision of substantive legal services by you to a client.
- 3.5 You may transfer Client Money between Client Accounts.
- 3.6 You may withdraw money from Client Account to reverse a payment into Client Account made in error.
- 3.7 You must make good any deficiency in Client Account, immediately that it becomes known, from your own funds through Office Account.
- 3.8 You must pay a receipt of mixed Client Money and other funds into Client Account and within 14 days transfer the amount of other funds to Office Account. In these circumstances you need not comply with the provisions of Rule 2.5.
- 3.9 You may transfer amounts from a ledger in the name of one client to a ledger in the name of another client:
 - 3.9.1 only with the prior written authority of both clients;
 - 3.9.2 if it would have been permissible to withdraw that sum from the account in accordance with these rules; and

3.9.3 if it would have been permissible to pay that sum into the account under these rules.

3.10 You may hold funds jointly with:

- 3.10.1 the Client,
- 3.10.2 a CILEx Practitioner,
- 3.10.3 an Authorised Entity,
- 3.10.4 a Regulated Practice,
- 3.10.5 an Authorised Person, or
- 3.10.6 a third party

when instructed in writing by your client to do so, provided that:

3.10.7 the funds are held on a joint account designated as to beneficiary and purpose; and

3.10.8 you maintain, available for inspection by CILEx Regulation, the client's written authority for every payment made from the joint account upon your signature and duplicate original bank statements for the joint account; and

3.10.9 compliance with these requirements is confirmed in the Accountant's Report required by Rule 10.

3.11 CILEx Regulation may by written consent relieve you of your duty to comply with these rules in whole or part in relation to a specific client's funds where CILEx Regulation considers it appropriate in the circumstances to do so and CILEx Regulation is satisfied that adequate other arrangements exist to safeguard that client's interests.

4. Method and Authority for Withdrawals from Client Account

4.1 A withdrawal from a Client Account may be made only after a specific authority in respect of that withdrawal has been signed by an appropriate person or persons in accordance with the Authorised Entity's procedures for signing on Client Account. An

authority for withdrawals from Client Account may be signed electronically, subject to appropriate safeguards and controls.

- 4.2 Authorised Entities must put in place appropriate systems and procedures governing withdrawals from Client Account, including who should be permitted by the Authorised Entity to sign on Client Account.
- 4.3 A signed authority shall not be required for the transfer of money from one Client Account to another Client Account at the same bank or building society except where either is a separate designated account.
- 4.4 A withdrawal from a Client Account in favour of you must be made either by way of a cheque to you or by way of a transfer to your Office Account. The withdrawal in favour of you must not be made in cash.

5. Office Account

- 5.1 You must effect all payments and receipts of your own money in connection with your practice through an Office Account.
- 5.2 You must maintain as part of your required Accounts Records accurate and up to date records of payments from and receipts into Office Account.

6. Interest on Client Account

- 6.1 You must place Client Money on deposit so as to earn interest unless it would be unreasonable or inappropriate to do so.
- 6.2 You must account to each client for the proper proportion of any interest earned (or which ought to have been earned) except to the extent that, on that client's money:

- 6.2.1 the amount due does not exceed such amount as CILEx Regulation may from time to time stipulate in Guidance; or
 - 6.2.2 the interest is in respect of Client Money held on account of costs or disbursements; or
 - 6.2.3 the interest is in respect of money held for any body administering public legal aid funds.
- 6.3 You may not exclude your obligations to pay interest in accordance with these rules by contract with your client.
- 6.4 If you hold money as a stakeholder you must pay interest to the recipient of the stake.
- 6.5 Your client may, without prejudice to any other remedy, apply to CILEx Regulation for a Certificate as to whether or not interest, or a sum in lieu of interest, should have been paid, and, if so, the amount. If CILEx Regulation certifies that interest, or a sum in lieu of interest, should have been paid, you must pay the certified sum.

7. Accounting Records

- 7.1 You must operate proper accounting systems and controls resulting in the maintenance of complete and accurate Accounting Records sufficient to demonstrate the entitlements to all Client Money held by you and document every payment or receipt effected in the course of your practice.
- 7.2 In particular (but without limit) you must have available together for inspection by CILEx Regulation the following:
- 7.2.1 a record for every payment from Client Account;
 - 7.2.2 written vouchers describing and authorising every Client Account and Office Account transaction;
 - 7.2.3 an up to date ledger for each matter for each client showing all Office Account and Client Account

- transactions for that matter and the balance of Client Money held in relation to that matter for that client;
- 7.2.4 Client Account and Office Account cash books showing every transaction on those accounts;
 - 7.2.5 all Client Account and Office Account bank statements and passbooks;
 - 7.2.6 all Client Account and Office Account chequebooks and paying in books with all counterfoils properly completed;
 - 7.2.7 documentary reconciliations of Client Account;
 - 7.2.8 all written authorities obtained for inter-client ledger transfers required by rule 3.9;
 - 7.2.9 all bills and written intimations of costs sent by you;
 - 7.2.10 a list of all joint accounts with the records required by paragraph 3.10.
- 7.3 You may maintain Accounting Records in either or both written and electronic form but insofar as records are maintained in electronic form you must:
- 7.3.1 electronically back up all information held at the end of business each day and store the most recent copy away from your premises whenever the office is closed;
 - 7.3.2 use a system which is capable of providing printed copies of ledgers and other information held immediately upon it being required.
- 7.4 You must take every necessary step to ensure that all Accounting Records are kept safe and in good order.

8. Reconciliation of Client Account

- 8.1 You must, at least once every five weeks:
- 8.1.1 compare the balance on the Client Account cash book with the balance shown on the statements and passbooks

- (after allowing for all unrepresented items) of all Client Accounts; and
- 8.1.2 as at the same date prepare a listing of balances shown by the client ledgers of the liabilities to clients, and compare the total of those balances with the Client Account cash book; and
 - 8.1.3 prepare a reconciliation statement that explains the cause of any difference; and
 - 8.1.4 take appropriate action promptly to correct any differences in order to balance the reconciliation statement.

9. Retention of Records

- 9.1 You must retain for a period of at least six years from the date of the last entry those materials referred to in rule 7.2 and all other records (whether held electronically or otherwise) pertaining to transactions on each Client Account, whether held as a general Client Account or a separate Designated Client Account.
- 9.2 You must retain paid cheques and other authorities for withdrawals from Client Account for a period of at least two years but these may remain in the physical possession of a bank or building society held on your behalf.

10. Accountant's Report

- 10.1 You must deliver to CILEx Regulation an Accountant's Report from a Reporting Accountant that must cover a period of no more than twelve months;
 - 10.1.1 contiguous with the period of the previous Accountant's Report delivered by you; or

- 10.1.2 if there is no previous Accountant's Report, from the date upon which you first held Client Money.
- 10.2 If you have not held Client Money during the whole of a period for which an Accountant's Report would otherwise be required you may, in relation to that reporting period, provide to CILEx Regulation in place of an Accountant's Report, a certificate (in such form as CILEx Regulation may stipulate in any Guidance) to that effect and such certificate shall be deemed to be an Accountant's Report for the purpose of rule 10.1.
- 10.3 Your Accountant's Report must relate to your most recently concluded Account Period as defined in Rule 10.1 above and must be delivered to CILEx Regulation as soon as reasonably practicable and in any event within six months from the conclusion of that Account Period.
- 10.4 You must deliver an Accountant's Report to CILEx Regulation for the period up to and including the date upon which for any reason you ceased to hold Client Money.

11. Test Procedures

- 11.1 The Reporting Accountant must examine the Accounts Records selected by them and make the following checks:
 - 11.1.1 confirm that your accounting system complies with the requirements for Accounts Records in these rules; and
 - 11.1.1.1 that an appropriate client ledger is kept for each client; and
 - 11.1.1.2 the client ledger shows details of all money received, held or paid on account.
 - 11.1.2 for each client the transactions relating to Client Money are accurately recorded;
 - 11.1.3 make checks of postings to the client ledger accounts from records of receipts and payments of Client Money;

- 11.1.4 compare a sample of payments into and from the Client Account as shown in the bank or building society statements or passbooks with your records of receipts and payments of Client Money;
- 11.1.5 check the system for recording costs and making transfers of costs from the Client Accounts;
- 11.1.6 examine a selection of documents to confirm that the documentary evidence of the financial transactions comply with these rules and that the entries relating to those transactions comply with these rules;
- 11.1.7 select details of the balances on client ledgers for at least two dates and compare the total shown by the client ledger accounts of liabilities to the clients with the cash account balance, and reconcile that cash account balance with the balances held as client monies;
- 11.1.8 confirm that reconciliation statements have been kept in accordance with these rules;
- 11.1.9 check the client ledger accounts to see whether any payments have been made from the Client Account in excess of money held on behalf of that client;
- 11.1.10 check the office ledgers, office cash accounts and the bank statements for any Office Account to see whether any Client Money has been improperly paid into an Office Account, or if it has been improperly paid into Office Account and has been kept there in breach of these rules;
- 11.1.11 check the records for any Client Money held outside a Client Account to ascertain what transactions have been effected in respect of their money and to confirm that the client has given the appropriate instructions in accordance with these rules;
- 11.1.12 check the client ledgers to ensure these rules have been complied with in respect of maintaining records;

- 11.1.13 check that statements and passbooks are being kept in accordance with these rules and crosscheck transactions with client files where appropriate;
 - 11.1.14 check that interest earned on Designated Client Accounts and accounts opened on clients' instructions are credited in accordance with these rules; and
 - 11.1.15 ask for any information or explanations from you which is required as a result of these checks.
- 11.2 The Reporting Accountant may examine your accounting records, files and other documents at your office. If the Reporting Accountant requires access to these records, files and documents at your office you must permit access.
- 11.3 The Reporting Accountant must request, and you must provide, details of all accounts kept or operated by you in connection with your practice at any time during the Account Period to which the report relates.
- 11.4 The Reporting Accountant must note in the Accountant's Report any substantial departures from these rules discovered by them whilst carrying out work in preparation of the report.

12. Matters Outside the Reporting Accountant's Remit

- 12.1 The Reporting Accountant is not required to:-
- 12.1.1 extend their enquiries beyond the information contained in the documents produced, supplementary information and explanations given by you;
 - 12.1.2 enquire into stocks, shares, securities or documents of title held by you on behalf of your clients;
 - 12.1.3 consider whether accounting records have been properly written up at a time that does not fall within the period of time to which their report relates;

- 12.1.4 check compliance with the provisions relating to payments of sums in lieu of interest.

13. Reporting Accountant

13.1 A person is eligible to be a Reporting Accountant for the purpose of these rules if they are an accountant who is:

- 13.1.1 a member of an accountancy body incorporated by Royal Charter or the Association of Authorised Public Accountants;

- 13.1.2 a person who is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006 (unless they are disqualified by Rule 13.2); or

- 13.1.3 is eligible within guidelines which may be published by CILEx Regulation from time to time but not otherwise.

13.2 A person may not be a Reporting Accountant if:

- 13.2.1 they have at any time within the previous five years been a partner, owner, manager, shareholder, member, employee or officer in the Authorised Entity to which the report relates; or

- 13.2.2 they are the parent, spouse, civil partner, sibling or child of a manager or employee of the Authorised Entity; or

- 13.2.3 they have been disqualified from acting as such by CILEx Regulation by written notice given after such person has had a fair opportunity to make representations that such notice should not be given.

13.3 You must include the following provisions in the terms upon which the Reporting Accountant is to act:

- 13.3.1 The Reporting Accountant undertakes to deliver the required Accountant's Report which will have been prepared for submission to CILEx Regulation who may rely upon it;

- 13.3.2 The Reporting Accountant may immediately report in writing to CILEx Regulation any suspicion of dishonesty or any serious breach of these rules coming to their attention or any other matter which might constitute circumstances representing a material risk to client funds;
- 13.3.3 The Reporting Accountant warrants that they are eligible to act as such under these rules and under those of their own professional body;
- 13.3.4 You consent to the disclosure of confidential information by the Reporting Accountant to CILEx Regulation if required by CILEx Regulation for any purpose under these rules;
- 13.3.5 The Reporting Accountant is instructed to notify CILEx Regulation in writing immediately of the termination of their retainer as Reporting Accountant indicating any matter which could have given rise to a notification under rule 13.3.2; and
- 13.3.6 If a Reporting Accountant is unable for any reason to provide an Accountant's Report to CILEx Regulation at the time and in the form required by these rules they are instructed to immediately notify CILEx Regulation in writing with a full and appropriate explanation.

14. Content of Accountant's Report

- 14.1 The Accountant's Report shall be in such form as may be stipulated by CILEx Regulation but must include statements that:
 - 14.1.1 your accounting systems and records comply with rule 7;
 - 14.1.2 reconciliations have been carried out in accordance with rule 8;
 - 14.1.3 sufficient checks have been carried out to properly express the opinion that as at the end of the relevant

financial period the amounts due to clients balance the funds in Client Account;

- 14.1.4 on the basis of a reasonable number of checked balances, interest has been paid to clients in accordance with these rules;
- 14.1.5 the test procedures set out in any current CILEx Regulation Guidance to Reporting Accountants have been applied; and
- 14.1.6 you either have or have not declined to produce any document or disclose any information requested by the Reporting Accountant whether on grounds of confidentiality, privilege or otherwise.

15. Acting as Liquidator, Bankruptcy Trustee, etc.

15.1 If, in the course of your practice, you propose to act as a liquidator, trustee in bankruptcy, Court of Protection receiver or trustee of an occupational pension scheme, you must:

- 15.1.1 obtain authorisation from CILEx Regulation before doing so; and
- 15.1.2 comply with any conditions that CILEx Regulation may attach to any authorisation it may grant.

15.2 In acting as a liquidator, trustee in bankruptcy, Court of Protection receiver or trustee of an occupational pension scheme you must comply with the applicable statutes, statutory rules and regulations and will not be in breach of these Rules to the extent that any action or omission is required by those enactments.

16. Accounts Rules Waivers

16.1 If you do not hold client funds, CILEx Regulation may grant you a written waiver from compliance with these Accounts Rules whilst this remains the case.