



**The CLC's Approach to the Review of Regulatory Arrangements
&
Review of the CLC's Accounts Code**

CLC Consultation Paper

February 2017

Deadline for receipt of responses: Friday 12 May 2017

Summary

Approach to the review of Regulatory Arrangements

- I. The Council for Licensed Conveyancer's (CLC) intent in reviewing its Regulatory Arrangements is to identify opportunities to reduce the regulatory burden on the profession and to make changes to foster innovation and competition in the legal services market, provided they can be assured that the changes impact positively on the interests of consumers.
- II. The CLC's 2011 Handbook was a significant first step towards a principles based and outcomes focused approach to regulation. Acknowledging the stretch expected of the CLC profession and given the rapid changes then anticipated within the broader legal market, the CLC committed to a further review of its Regulatory Arrangements in five years (i.e. in 2016/2017) to identify what further changes (if any) should be made.
- III. Our aim is that the review of Regulatory Arrangements will be completed in its entirety by July 2017, with any changes coming into force in January 2018.

Review of CLC Accounts Code

- IV. Whilst ensuring that appropriate levels of consumer protection are maintained the CLC's objective in reviewing the Accounts Code is to:
 - a. Remove any unnecessary and disproportionate regulatory burden
 - b. Provide greater flexibility for CLC Lawyers and Practices to participate in a diverse legal market, increasing access for the public and quality of legal services
 - c. Provide greater clarity for CLC Lawyers and Practices so that the CLC's expectations are clear.
- V. The CLC proposes to:-
 - a. Simplify the Accounts Code-removing any unnecessary barriers and restrictions to ensure that what the CLC requires of CLC Practices is no more than necessary, appropriate and proportionate
 - b. Amend the format of the Accountant's Report to limit or reduce the amount of prescribed testing required

- c. Introduce a new self-certification scheme for Aged Balances with an increased upper limit of £50
- d. Replace the CLC Accounts Code Guidance with a more targeted and focused practice note.

VI. During the Consultation Period the CLC will engage with the profession, with consumer representatives, and seek the views of other stakeholders.

Questions

- A. Do you agree with the principles that will inform the approach to the review of the regulatory arrangements?
- B. Do you agree with the proposed layout and structure of the CLC Handbook?
- C. Do you agree that the proposed Accounts Code is clearer and simpler to understand?
- D. Are any adjustments to the Code necessary or desirable in relation to the keeping of accounts in probate matters?
- E. Do you agree the proposed revisions to the format of the Accountant's Report? In particular, do you think that the wording addresses appropriately the principal areas accountants should be reporting on?
- F. Do you agree that the CLC should enquire what steps it should take to obtain assurances about the financial viability of CLC Practices?
- G. Do you agree with the proposals to permit CLC practices to withdraw money (to the limit of £50) from a client account without prior CLC authorisation in circumstances where they cannot locate their client?
- H. Do you agree that the risks of the new self-certification system would be effectively mitigated by the redress mechanism that the CLC has put in place?

Responding to this Consultation

1. You are invited to respond to our [online consultation](#) (you can preview the questions on page 4).
2. When you respond please give your name and address and your status (job or professional title) or professional qualification.
3. The CLC reserves the right to publish any response and to refer to it specifically in any further document it publishes following this Consultation. If you wish your response to be treated as confidential please let us know when you respond.
4. You can respond by email or by post to:

The Council for Licensed Conveyancers
CAN Mezzanine
49-51 East Road
London
N1 6AH
Or by to DX 36603 FINSBURY

Submission Deadline: 5pm on Friday 12 May 2017

Statutory Framework

5. The CLC was established by the Administration of Justice Act 1985 (AJA) and is an approved regulator under the Legal Services Act 2007. The CLC's role is to safeguard the public interest and consumers by regulating providers to deliver high quality and accessible legal services.

6. As an approved regulator the CLC 'must, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives', namely :-
 - Protecting and promoting the public interest;
 - Supporting the constitutional principle of the rule of law;
 - Improving access to justice;
 - Protecting and promoting the interests of consumers;
 - Promoting competition in the provision of services by 'authorised persons';
 - Encouraging an independent, strong, diverse and effective legal profession;
 - Increasing public understanding of the citizen's legal rights and duties;
 - Promoting and maintaining adherence to the professional principles.

7. The "professional principles" are:-
 - That authorised persons should act with independence and integrity,
 - That authorised persons should maintain proper standards of work,
 - That authorised persons should act in the best interests of their clients,
 - That persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and
 - That the affairs of clients should be kept confidential.

8. The CLC is also required to 'have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed'.

Introduction

Purpose of paper

9. In 2015/16 the CLC made a commitment to review the CLC Handbook, to continue its mission to foster innovation and competition in the legal services market, and strike the right balance between reducing regulatory burdens and ensuring consumer protection.
10. This consultation paper sets out the CLC's:-
 - a. Rationale for change
 - b. Approach to the review of its Handbook
 - c. Review of CLC Accounts Code, together with its draft amendments
 - d. Next steps and implementation timetable for the CLC Accounts Code.

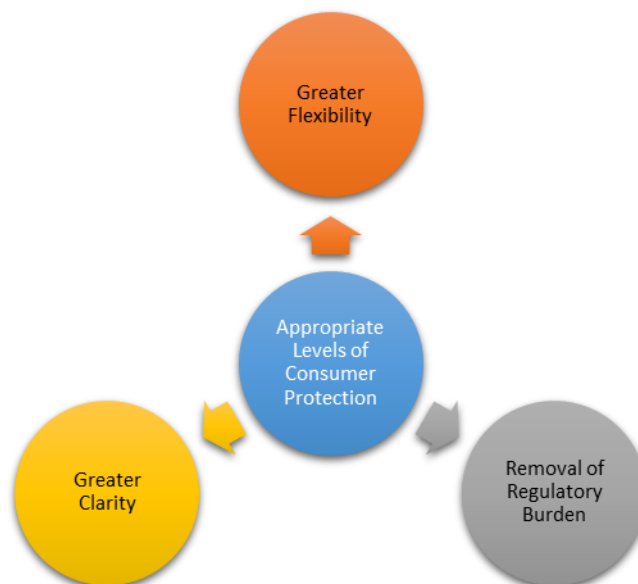
Rationale for change

11. The introduction of the CLC's 2011 Handbook marked the transition of the CLC from a 'rules based' regulator to an 'outcomes based' regulator. It also introduced Alternative Business Structures (ABS).
12. Recent changes to the Regulatory Arrangements include:
 - a. Amendments to Professional Indemnity Insurance Arrangements so that insurers who have signed the Participating Insurers Agreement provide Professional Indemnity Insurance for CLC Practices
 - b. Changes to the delivery of education
 - c. Amendments to the CLC's Fee Rules (resulting in a 20% reduction in Practice fee rates).
13. The CLC believes that more can and should be done to provide CLC Practices with greater freedom to innovate, compete and grow. A review and update of the CLC's approach and regulatory arrangements also tests whether they remain fit for purpose and are in step with the changing legal market.
14. Any change to the CLC's regulatory arrangements must meet the CLC's core regulatory purpose of providing appropriate protection for the public and

consumers, supporting the operation of the rule of law and the proper administration of justice. The CLC will take account of all the regulatory objectives set out in the Legal Services Act 2007, including promoting competition and improving access to justice and will be mindful of best regulatory practice to ensure its regulation is proportionate and targeted only where needed.

Approach for the review of CLC Handbook

15. The CLC's framework and rationale for a review of its Handbook is designed to achieve the following:



16. The CLC has adopted these principles to shape and determine the wider review of its regulatory arrangements starting with a review of the Continuing Professional Development Code.

17. The CLC has sought to deliver a simpler articulation of its current requirements rather than introducing new obligations on the regulated community. However, if during the review, any areas are identified to be lacking in protection or the requirements are not as clear as they could be, the CLC may insert additional requirements to the relevant Code in order to address this.

18. As part of its wider review of the CLC Handbook, the CLC is also proposing to change the overall layout of the Handbook for the sake of clarity and thus compliance. The regulatory arrangements will be grouped under six headings which will reflect the main regulatory issues faced by CLC Lawyers and Practices. The proposed headings are as follows:-

- **Standards of Service-** sets out the standard of service expected of CLC Lawyers and practices, taking into account the individual needs and circumstances of each client.
- **Information Security-** denotes the CLC's expectations in relation to the handling and safeguarding of confidential information.
- **Co-operation & Accountability-** co-operation in particular with the CLC and Legal Ombudsman and sets out the ways in which CLC Lawyers and Practices are held accountable to the CLC, consumers and the wider public.
- **Independence & Integrity-**concerns the professional obligations and conduct requirements for CLC Lawyers and Practices in their dealings with other lawyers, as well as with their clients.
- **Money Laundering and Fraud-** the CLC's expectations in relation to the prevention, detection and reporting of money laundering and fraud.
- **Business Compliance-** how Practices and staff need to be managed and supervised including the compliance controls Practices must have in place to comply with their regulatory obligations.

19. The new layout is intended to provide a clearer expression of the behaviours and standards expected from the regulated community. The new structure will also make it easier for consumers to have a better understanding of the minimum service standards they can expect of CLC Lawyers and Practices.

20. The review for the remaining regulatory arrangements will be completed in tranches grouping together matters that sit together under the proposed new headings. Our aim is that the review will be completed in its entirety by July 2017, with any changes coming into force in January 2018.
21. In an effort to further simplify the overall layout of the CLC Handbook, the CLC also proposes to remove all current guidance within the Handbook, replacing this with a suite of useful, relevant and supportive practice notes for the regulated community.
22. The CLC recognises that the views of the profession and consumers will be crucial to the development and structure of the new Handbook. The CLC will be consulting with the profession and other key stakeholders to ensure it develops a regulatory framework which is sharper, future-proofed and better focused.

Questions

- A. Do you agree with the principles that will inform the approach to the review of the regulatory arrangements?
- B. Do you agree with the proposed structure of the CLC Handbook?

Review of CLC Accounts Code

Background

23. Misuse of client money is one of the key risks to consumer protection. Effective mitigation of this risk continues to be a priority for the CLC. A combination of outcomes in the Code of Conduct and detailed provisions in the Accounts Code currently seek to ensure that money belonging to a client is kept safe at all times.

24. The length of the current Accounts Code contributes to the difficulty a number of new CLC Lawyers have in understanding and complying with the Accounts Code. Practices at times find themselves in technical breach of the Accounts Code even in circumstances where there is no risk to client money (e.g. failing to complete bank reconciliations on time). This would suggest that the current Accounts Code is too complicated and prescriptive, lacking clear focus on the real risks to client money. The CLC's intention in reviewing and amending the Accounts Code is to move to a more principles based approach that is targeted on risks to client's money.

25. The CLC proposes to:-

- a. Simplify the Accounts Code- removing any unnecessary barriers and restrictions to ensure that what the CLC requires of practices is no more than necessary, appropriate and proportionate
- b. Amend the format of the Accountant's Report to limit or reduce the amount of prescribed testing required
- c. Introduce a new self-certification scheme for aged balances of up to £50
- d. Replace the CLC Accounts Code Guidance with a more targeted and focused practice note.

1. Proposal: Simplify the Accounts Code

26. The key changes the CLC proposes to simplify the Accounts Code include:
- a. Making all managers responsible for the practice's compliance with the Accounts Code (paragraphs 1-2 of the draft Accounts Code)
 - b. Removing current reference to the CLC's Code of Conduct and Overriding Principles to remove the potential for confusion about the scope of the Manager's responsibility
 - c. Removing overly prescriptive requirements on the frequency for updating accounting records so as to provide practices with greater flexibility in relation the way they manage their accounting records (paragraphs 6.1-6.10)
 - d. Requiring all Accounting Records to be kept for a minimum of 6 years; currently some records need be kept only for 2 years (paragraph 6.10)
 - e. Removing detailed provisions in the Accounts Code that dictate the form an accountant's report should take when we require it (paragraph 7).
27. Draft changes to the CLC Accounts Code reflecting these changes are attached in **Annex 1** (with a Destination Table at **Annex 3** to enable the changes to be more easily tracked).

Rationale and impact of proposals

28. The draft amended Accounts Code is 5 pages in length (compared to 10 pages for the current Accounts Code). A simpler, more targeted set of requirements will make the Code easier to understand, increasing the incidence of compliance and reducing compliance costs. For consumers, the proposed changes are likely to increase their understanding of the standards and key principles for regulation in this area, in other words that client money and assets must be safeguarded. They also focus firms on addressing the real risks to client money.
29. The proposed changes will provide practices with greater freedom to manage their business. We believe that less time will need to be spent on setting up systems and processes because it is a requirement of the Accounts Code rather

than because they fit with the needs of clients and of the business. For example the CLC has removed time limits prescribing how frequently accounting records should be updated. We anticipate, however, that there will be a specific requirement in the updated Transactions Code for the client ledger to be immediately accessible with each closed matter file.

30. The CLC believes in a proportionate approach to regulation. While the proposals to simplify the Accounts Code are intended to provide practices with greater freedom and reduce regulatory burden, a practice's primary objective must always be to ensure that client money and assets are protected, and that there are systems and procedures in place to ensure client money is kept safe at all times. In circumstances where practices wilfully, negligently or carelessly abuse their position, the CLC will respond robustly.
31. The CLC has been authorised since 2008 to license and regulate CLC Practices in the provision of probate services (which include the administration of estates). At the moment we are not aware of any need to adjust the requirements of the Code to take account of how accounts are best kept in relation to probate matters. However, comments, preferably with specific examples are invited, so that the issue can be reviewed further.
32. The CLC does not believe its proposals to simplify the Code, reduce or dilute in any way the obligation on practices, their managers or employees to keep money safe. It is satisfied that the proposals are compatible with the regulatory objectives to protect and promote the interests of consumers and support the constitutional principle of the rule of law.

Questions

- C. Do you agree that the proposed Accounts Code is clearer and easier to understand?
- D. Are any adjustments to the Code necessary or desirable in relation to the keeping of accounts in probate matters?

2. Proposal: Amend the format of the Accountant's Report and remove the amount of prescribed testing required.

33. The Accounts Code places a mandatory requirement on all practices to obtain an Accountant's Report at the end of each Accounting Period and sets out the test, checks and procedures a Reporting Accountant must undertake in order to determine a CLC Practice's compliance with the Accounts Code.
34. The purpose of an Accountant's Report is to provide assurance that the CLC Practice is managing the Client Account in accordance with the Accounts Code, maintaining appropriate accounting records and carrying out regular checks to ensure it remains compliance with the Accounts Code. The CLC acknowledges that the requirement to obtain an Accountant's Report is a significant regulatory cost and is willing to consider alternative ways in which it might obtain equivalent assurance, though it would expect any solution to be equally applicable for all CLC Practices.
35. On the assumption that the CLC will conclude that Accountant's Reports continue to provide appropriate assurance, the CLC has reviewing the detailed checks and tests to ensure that they remain fit for purpose and place only proportionate burdens and costs on the practices concerned. While some minor amendments to the format of the report have been made in recent years, the CLC considers that the checks and tests imposed still appear too prescriptive and not in keeping with an outcomes focused approach.
36. The CLC proposes to amend the format of the Accountant's Report and remove the amount of prescribed testing that is required and place greater reliance on the professional judgement of the accountant. The Accounts Code already stipulates the high degree of skill and expertise that is required of an accountant who prepares the reports.
37. The CLC therefore considers it entirely appropriate that Reporting Accountants should exercise their judgement over the degree of risk posed and to reflect that judgement in their Reports. Such an approach would still allow the CLC to retain a fundamental element of independent oversight over practices that hold client money - but in a more proportionate and targeted way. An amended draft version of the Accountant's Report, together with guidance setting out the nature of the tests and checks that the CLC might expect the Reporting Accountant to undertake is at **Annex 2**.

38. The CLC wishes further to investigate with CLC practices and Reporting Accountants whether the scope of matters reported in the Accountant's Report should be broadened, and in particular whether Reporting Accountants should be required to give assurance as to the financial viability of the CLC Practice. The CLC intends to enquire the nature of the assurance which might be given, the value to the consumer, the CLC Practice and the CLC of that assurance, the additional cost to the CLC Practice, and whether such additional cost is justifiable in the context of the regulatory objectives and any increase in the regulatory burden for the CLC Practice.
39. The UK Corporate Governance Code¹ published by the Financial Reporting Council includes a requirement for company directors to report in the annual report and accounts on solvency, liquidity, risk management and viability which the company's statutory auditors then assure. Whilst it does not intend to include any specific requirement in the new Accounts Code, the CLC would like as part of the consultation process to begin discussions about the feasibility of introducing such a requirement for CLC Practices.

Questions

- E. Do you agree the proposed revisions to the format of the Accountant's Report? In particular, do you think that the wording addresses appropriately the principal areas accountants should be reporting on?
- F. Do you agree that the CLC should enquire what steps it should take to obtain assurances about the financial viability of CLC Practices?

3. Proposal: Introduce self-certification scheme for aged balances of up to £50

40. At the end of a transaction there may be residual balance for which the CLC Practice needs to account to the client. Practices are required to pay these to

¹ <https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/UK-Corporate-Governance-Code-April-2016.pdf>

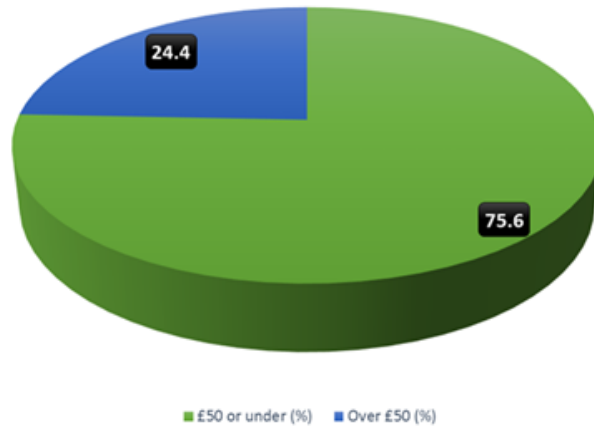
the client as soon as there is no proper reason to retain them. Over a period of time, usually as a result of matters outside the direct control of the practice, small balances may accrue. It may not be possible to repay these monies to the client because they have not told the practice about any change in their contact details.

41. Currently, if a client cannot be traced, practices must obtain permission from the CLC before they can withdraw that client's money from the client account. The practice must also provide evidence of the steps taken to identify and trace the Rightful Recipient of the funds, and to pay the balance due to the Rightful Recipient. If the amount to be withdrawn is under £20, the CLC will usually allow the money to be transferred to the office account. If the amount is £20 or over the money withdrawn will only be permitted to be paid to the CLC (and then transferred to the CLC Compensation Fund). The balance will be paid by the Practice or the CLC if the Rightful Recipient is later traced.
42. The number of applications to the CLC is increasing. In 2015, the CLC received 94 applications from practices to withdraw residual client balances totalling just under £117,000. Details of the application numbers for previous years are provided in the table below.

Year	Number of Applications
2014	90
2013	87
2012	34

43. Typically practices will accumulate a number of client balances and deal with them in one application. Applications have comprised, on average, six or seven individual client balances. It is unusual for a substantial balance to remain to the credit of any one client.
44. An analysis of applications received from practices between January 2015 and June 2015 summarised at Figure 1 shows that over a six month period over three quarters of applications received were in respect of individual client balances for £50 or less.

Figure 1. The analysis shows that over three quarters (75.6%) of applications received from practices were for the withdrawal of balances up to £50.



45. The current requirements for managing and processing residual balances are complicated, costly and time consuming for both practices and the CLC.
46. The CLC proposes to replace the current requirement with a new self-certification system. CLC Practices will be allowed to withdraw aged balances of up to £50 in relation to any one individual client without prior CLC authorisation and pay the funds to the office account. They will continue to be liable for those funds if the Rightful Recipient subsequently makes a claim for the balance held.
47. Practices will be required to meet the following criteria before they are able to withdraw any aged balances from a client account:-
 - a. Establish the identity of the Rightful Recipient of the money
 - b. Make adequate attempts to return the money to the Rightful Recipient, and
 - c. Pay the funds to the office account observing that they remain liable should the Rightful Recipient make a legitimate claim for those monies in the future; and
 - d. Record the steps taken and retain those records, together with all relevant documentation

48. Any withdrawal of client money in excess of £50 will still need to be authorised by and paid to the CLC. Compliance with these requirements will be one of the processes reported on and tested by the Reporting Accountant.

Rationale and impact of proposals

49. The introduction of a self-certifiable amount (to the limit of £50) demonstrates a commitment by the CLC to, reduce the regulatory burden on the profession. The proposal is a proportionate measure which will reduce the administrative burden upon CLC practices.

50. The CLC recognises that there are risks in removing the obligation to obtain CLC authorisation prior to withdrawals from client accounts, namely:

- Practices might feel that they can be less diligent in finalising matters and accounting to clients. In extreme cases, there could be a temptation to be dishonest.
- Public confidence in the profession may be compromised if there is no independent scrutiny of the steps taken by the practice to try to locate the rightful owners, and to return clients' money.
(Approximately 5-10 per cent of clients are traced as a result of practices going through the formal authorisation process and being prompted to take additional steps to trace the client).

51. The CLC considers that these risks are however adequately addressed by the safeguards imposed in the new system:

- It is restricted to individual balances of up to £50; larger amounts will continue to be authorised by the CLC
- Managers will have the responsibility to ensure practices take sufficient steps to pay Aged Balances to Rightful Recipients
- Reporting accountants will be required to check for compliance with the requirements of the new system when preparing the annual report to the CLC.

52. To support managers and practices to manage these risks, the CLC will issue a comprehensive Aged Balance Practice Note which will provide a framework for practices to bear in mind when managing Aged Balances. Following the

implementation of the new approach, the CLC will also carry out a thematic review of the new process within 2 years to assess any negative impacts and if any are identified, will focus on taking any necessary steps to best mitigate these.

Questions

- G. Do you agree with the proposals to permit CLC practices to withdraw money (to the limit of £50) from a client account and pay into the office account without prior CLC authorisation in circumstances where they cannot locate their client?
- H. Do you agree that the risks of the new self-certification system would be effectively mitigated by the repayment provisions proposed by the CLC?

Next steps and implementation table

53. The Accounts Code consultation will be open until 12 May 2017. During this period, the CLC will pro-actively target and facilitate discussions with key stakeholders, including practices. The timetable for implementation is as follows:

03 November 2016	Council approve terms
10 February 2017	Publish Consultation Paper
12 May 2017	End of Consultation Period
30 June 2017	Application to LSB to approve amended Accounts Code
08 January 2018	Implementation of Accounts Code



Accounts Code

Part 1 - General Provisions

- 1.1 The requirements set out below apply to all CLC Lawyers and CLC Practices who receive or deal with money belonging to a Client.
- 1.2 Each Manager of a CLC Practice is jointly and severally responsible with any other Manager of that CLC Practice for compliance with the Accounts Code by the CLC Practice and its employees.
- 1.3 Managers must maintain proper governance, management and supervision over the CLC Practice and ensure appropriate systems, procedures, processes and internal controls are in place to comply with the Accounts Code.
- 1.4 In order to monitor compliance with the Accounts Code, the CLC may at any time request information and documentation. These must be delivered at the time and place and in the format requested by the CLC.
- 1.5 The CLC is entitled to seek verification from clients, staff, service providers and banks. If requested, the CLC Practice will provide written permission to facilitate the provision of this information.

Part 2- Client Money

- 2.1 Client Money is any money held on behalf of a Client by a CLC Practice incidental to the provision of legal services regulated by the CLC
- 2.2 A Client's Money may only be used in accordance with a Client's instructions.

Part 3- Client Account

- 3.1 A Client Account is a current or deposit account in the name of the CLC Practice designated as a 'Client Account' at a Bank or Building society located in England or Wales.
- 3.2 A Client Account is used to hold Client Money, and is not intended to provide banking facilities for Clients.
- 3.3 Client Money must be kept entirely separate from money belonging to the CLC Practice and Office Money.
- 3.4 The Client Account and Office Account may only be used for the provision of services regulated by the CLC. Separate bank accounts and separate accounting records must be maintained for the provision of any services which are not CLC regulated.
- 3.5 The CLC Practice must ensure that any individual Client Account's balance does not go into debit and become overdrawn.
- 3.6 The CLC Practice must replace without delay any shortfall on a client's account.
- 3.7 Client Account money should always be immediately available.
- 3.8 The CLC Practice must pay money received into Client Account if there is doubt whether it is wholly Office Money. If it is later discovered that all or part of this money is Office Money the CLC Practice must transfer such part as is Office Money to the Office Account.
- 3.9 Money incorrectly paid into a Client Account must on discovery be transferred out of the Client Account without delay.
- 3.10 Interest earned on Client Money must be recorded in the relevant client account ledger. The CLC Practice must obtain written consent from the Client if it wishes to depart from this requirement.

Part 4-Withdrawals from Client Accounts

- 4.1 The CLC Practice may only withdraw money from a Client's Account if:
- a. It is to make a payment to or on behalf of the Client
 - b. It is to pay an invoice which has been properly submitted to the Client
 - c. It is to pay a disbursement on behalf of the Client
 - d. It is to reimburse the CLC Practice for money paid out of the Office Account on behalf of the Client

- e. It is money which has been paid into an account in error
 - f. It is transferred to another Client Account
 - g. It is money not covered by requirement 4.1(a)-(d) and the CLC Practice has complied with the conditions set out in requirement 5.1.
- 4.2 Payments out of a Client Account must be duly authorised by the signatories to the Client Account and may only be made by:
- a. Cheque
 - b. Electronic payment (BACS/CHAPS)
 - c. Written bank instruction.
- 4.3 The CLC Practice must advise the CLC without delay of the discovery of any misappropriation of client funds, and must make good the shortfall from its Office Account without delay.
- 4.4 All monies held in Client Accounts must be paid to the Rightful Recipient as soon as there is no longer any proper reason to retain these funds.

Part 5 - Aged Balances

- 5.1 Monies remaining in a Client Account that cannot be paid to the Rightful Recipient may be withdrawn under requirement 4.1(g) only where the balance has been static for over 12 months, the amount held does not exceed £50 in relation to any one individual client matter and the CLC Practice has:
- a. Established the identity of the owner of the Client Money
 - b. Made adequate attempts to return it to the Rightful Recipient
 - c. Paid the funds to the Office Account –observing that the CLC Practice remains liable to repay these monies to its client if a claim is made for them
 - d. Recorded the steps taken in accordance with requirement 5.1(a)-(c) above and retained those records, together with all relevant documentation.
- 5.2 Any withdrawal of Client Money in excess of £50 must be authorised by and paid to the CLC.

Part 6-Accounting

- 6.1 The CLC Practice must update the Accounting Records at regular intervals of not more than 30 days from the last month end based on the needs of the CLC Practice.

- 6.2 Accounting Records must be drawn up using accepted bookkeeping practice and in accordance with generally accepted accounting practices.
- 6.3 Accounting Records should be compiled by someone with the necessary skill and experience.
- 6.4 The Accounting Records for the CLC Practice must be held on an electronic accounting system that is suitable for a CLC Practice holding Client Money.
- 6.5 The accounting system for the CLC Practice must at all times maintain accurate and chronological records of:-
- a. Client Money and Office Money
 - b. The indebtedness of the CLC Practice to individual Client Accounts
 - c. The Clients' total indebtedness to the CLC Practice
 - d. Individual transactions on individual Client Accounts
 - e. All transactions with sufficient narrative to explain their purpose
 - f. Bills of costs which distinguish between costs, paid disbursements and disbursements not yet paid at the date of the invoice and VAT
 - g. The balance on any Client or Office ledger account (both current and historic).
- 6.6 Bank reconciliation statements must be produced within 7 days of the respective calendar month end.
- 6.7 The reconciliation statement must compare the bank balance, the cash book balance and a listing of reconciling items. Client bank accounts must also be reconciled to the Client Account listing.
- 6.8 Reconciling items need to be reviewed and cleared on a timely basis.
- 6.9 If the accounting or cashiering functions are outsourced, the CLC Practice must have immediate and unrestricted access to its Accounting Records.
- 6.10 The CLC Practice must retain Accounting Records for no less than 6 years.

Part 7 Accountant Reports

- 7.1 The CLC Practice must procure the delivery by the Reporting Accountant to the CLC of an Accountant's Report if at any time during an Accounting Period the CLC Practice held or received Client Money.
- 7.2 The Accountant's Report must be delivered by the CLC Practice within 6 months of the end of the Accounting Period.

7.3 The CLC Practice must immediately notify the CLC of any changes to the identity, address and any other relevant details of the Reporting Accountant.

7.4 The CLC Practice must supply the Reporting Accountant with:

- a. Details of bank statements for all Client Accounts and Office Accounts kept or operated during the Accounting Period
- b. Any other information and documentation that the Reporting Accountant considers necessary to complete the Accountant's Report.

7.5 The Reporting Accountant must be engaged:

- a. To conduct tests and enquiries so as to determine whether the Accounts Code has been complied with, to include:
 - (i) The systems of internal control and management oversight and supervision
 - (ii) Monthly reconciliation of Client Accounts
 - (iii) Client Account balances, transactions and shortfalls
- b. To complete, sign and deliver the Accountant's Report in the form required by the CLC for the CLC Practice with any supporting schedules to the CLC with a copy to the CLC Practice
- c. To report directly and immediately to the CLC without prior reference to the CLC Practice if in the course of the engagement evidence of theft or fraud affecting Client Money is discovered or there is a reasonable belief that Client Money may be at risk
- d. To report directly to the CLC if their appointment is terminated after:
 - i. The issue of, or indication of the intention to issue, a qualified Accountant's Report
 - ii. The raising of concerns with the CLC Practice in the course of their retainer
 - iii. Where they have ceased to act because paragraph 7.7 applies.
- e. To retain these terms of engagement for at least 2 years after completion of the issue of the Accountant's Report, and to provide the CLC with a copy on request
- f. To provide the CLC on request any further relevant information in their possession relating to the compilation of the Accountant's Report
- g. By accepting the engagement to provide an Accountant's Report the Reporting Accountant agrees that:
 - (i) The CLC will rely upon the content of the Accountant's Report

- (ii) A duty of care is owed by the Reporting Accountant to the CLC
- (iii) The Reporting Accountant's liability to the CLC will be limited to the loss and costs suffered by the CLC arising from items the Reporting Accountant has negligently or fraudulently failed to identify and specify in the Accountant's Report
- (iv) To the extent necessary to enable the Reporting Accountant to comply with the paragraphs 7.5(g) (i)-(iii), the CLC Practice waives its rights of confidentiality. The waiver extends to any report made, documents produced or information disclosed to the CLC in good faith and in accordance with these instructions, even though it may subsequently transpire that the Reporting Accountant was mistaken in his belief that there was cause for concern.

7.6 The Reporting Accountant must hold a current practising certificate at the time of signing the Accountant's Report and be a member of one of the following accounting bodies:

- a. The Institute of Chartered Accountants in England and Wales
- b. The Institute of Chartered Accountants of Scotland
- c. The Institute of Chartered Accountants in Ireland
- d. The Association of Chartered Certified Accountants
- e. The Association of Authorised Public Accountants.

7.7 The Accountants Report must not be signed by a person or practice:

- a. Which has been disqualified by the CLC
- b. Where the CLC is not able to rely on the Accountant's Report because the Reporting Accountant has an actual or reasonably apparent conflict of interest.

Annex 2

Guidance for accountants completing the CLC accountant report

COMPLETION GUIDE

- This reporting template comes into effect for all reporting periods ending after [DATE].
- The accountants report is due within 6 months of the end of the reporting period.
- This report should be submitted to the CLC using any of the methods below:
 - Posting it to:
Council for Licensed Conveyancers
Monitoring and Practice Support
CAN Mezzanine
49-51 East Road,
London
N1 6AH
 - Sending it to: DX36603 FINSBURY
 - Emailing it to: monitoring@clc-uk.org
- Please ensure that prior to completing the report that you:
 - Comply with provisions 7.6 and 7.7
 - Have read the Accounts Code and have been engaged in accordance with provision 7.5
 - You have read the CLC's Accounts Code and the guidance accompanying this report.

SECTION ONE – CLC PRACTICE DETAILS

CLC Practice name: CLC number:

Period ending: Months in period under review:

SECTION TWO – REPORTING ACCOUNTANT DETAILS

Name of reporting accountant:

Professional body registered with & Registration number

Email address:

CLC Practice Name & Address:

CLC Practice telephone:

SECTION 3 – ACCOUNTANTS DECLARATION AND REPORT

Accountants Declaration

- | | | | |
|-----|--|------------------------------|-----------------------------|
| 1.1 | I/we comply with paragraphs 7.6 & 7.7 of the Accounts Code | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 1.2 | I/we was/were engaged in accordance with paragraph 7.5 of the Accounts Code | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 1.3 | I/we have read the Accounts Code & Guidance and conducted my work in such a manner to enable me to form a view whether the CLC Practice has complied with the Accounts Code | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 1.4 | No personal or business relationship exists or has existed which has prevented me from carrying out my instructions fully and providing the Accountant’s Declaration based solely on my inspection of the CLC Practice | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 1.5 | I conclude that the CLC Practice complies with the Accounts Code | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Accountants Report Findings

- | | | | |
|-----|---|--------------------------------------|------------------------------------|
| 2.1 | Did the CLC Practice provide all records, bank statements and explanations requested? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2.2 | Are the systems and internal controls of the CLC Practice sufficient to prevent and detect breaches to the Accounts Code? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2.3 | Indicate whether your report is qualified or unqualified | <input type="checkbox"/> Unqualified | <input type="checkbox"/> Qualified |

If you answered NO to any of the above questions and statements or are qualifying your report, please attach full details and explanations on a separate company letterheaded sheet.

- | | | | |
|-----|--|------------------------------|-----------------------------|
| 3.1 | Is there any other information that you consider should be brought to the CLC’s attention – if YES, please attach on a separate company letterheaded sheet details of these concerns, findings or information. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|-----|--|------------------------------|-----------------------------|

Name of Accountant completing this report:

Signature:

Date:

Introduction

The new Accountant's Report is significantly less prescriptive than the previous version and aims to rely on the Reporting Accountant's judgement to determine the plan and scope of their review, as well as conclude on the materiality of any breach.

Our intention is to move away from a prescriptive "check box" approach to a more outcome based approach. This gives the Reporting Accountant the flexibility and discretion to exercise their judgement by allowing them to:

1. Tailor the approach and the extent of the testing based on the size, complexity and control environment of the CLC Practice
2. Consider the impact of the control environment as it relates to Client Money
3. Focus on risks relevant to the CLC Practice and its management of the Client Account
4. Only qualify the Accountant's Report when there is material breach of the Accounts Code that puts Client Money at risk.

Responsibilities of the Reporting Accountant

The Reporting Accountant is engaged by the CLC Practice to review and report on:

1. The CLC Practice's compliance with the Accounts Code requirements, specifically:
 - a. Operation of the client account (Parts 3 & 4)
 - b. The treatment of aged balances (Part 5)
 - c. Accounting provisions (Part 6)
 - d. Bank reconciliations (Part 6)
2. Whether there is an appropriate system of internal controls, management oversight and supervision that ensures compliance with the accounts code.
3. Whether breaches or failings in 1 & 2 above have or are likely to put client money at risk.

Qualification of report

The purpose of the revised format of the Accountant's Report is to allow the Reporting Accountant to determine based on the outcome of their review whether the Accountant's Report should be qualified. The CLC would not expect the Reporting Accountant to qualify the Accountant's Report because of trivial or accidental non-compliance with the Accounts Code where an administrative error has been promptly identified and remedied.

The Accountant's Report is qualified based on the Reporting Accountant's assessment whether:

- a Client has lost money because of negligence, fraud or control breakdowns, whether or not such breakdowns have at a later stage been detected and refunded.
- there is a high likelihood that a Client could lose money because of controls and supervision breakdowns.

- Whether there have been material breaches of the Accounts Code that have been persistent or have not been immediately remedied on discovery.

Materiality

The overriding consideration in determining materiality is whether Client Money is being put at risk of loss through negligence, fraud or error. To assist in determining whether a breach is material the following table of circumstances has been developed:

	Almost always results in a qualification or should be reported to the CLC.	A factor that on its own or combined with other factors may result in a qualification.
A shortfall in the Client Account that is not attributed to an administrative or clerical error.	X	
A shortfall in the Client Account that is attributed to an administrative or clerical error that has without delay been replaced or corrected.		X
Any shortfall in a Client Account that is either not replaced or not replaced without delay.	X	
Breach of CLC codes resulting in failure to adequately protect Client Money.	X	
Actual or suspected fraud or dishonesty by a Director, manager, employee or shareholder of the CLC Practice.	X	
Actions of a third party that has or may put Client Money at risk.		X
Any material breach of the Accounts Code	X	
Accounting records and processes are inadequate to ensure compliance with the Accounts Code	X	
Accounting records are unreliable or inaccurate		X
The CLC Practice is unable or unwilling to provide documentation requested and necessary for the Reporting Accountant to conduct their review.	X	
Client bank reconciliations are not compiled in the manner and within the periods specified by the Accounts Code	X	
Client bank reconciliations, are not completed within specified timelines or are not of an appropriate standard		X
Reconciling items on bank reconciliations have been outstanding for more than 30 days		X
The control environment supporting the operation of the Client Account is inadequate		X
Aged balances are not being actively and appropriately avoided and managed		X
Regular or routine use of suspense accounts.		X

Test checks

Although the onus is on the Reporting Accountant to develop and conduct a plan to test the CLC Practice's compliance with the Accounts Code, the checklist that formed the basis of the old Accountant's Report is a useful guide for the development of a review plan. The tests specified in the previous Accounts Code have been included as a guide for the development of a testing program.

1	Book-keeping system
1.1	The accounting records clearly distinguish between client and office monies dealt with by the CLC Practice.
1.2	A separate ledger account is maintained for each individual client and the particulars of all client money received, held or paid on account of each client, including funds held on separate designated deposits, or elsewhere, are recorded.
1.3	The current balance on each client and office ledger account is always shown or is readily ascertainable from the accounting records.
1.4	The current balance shown on each client and office ledger account is correct.
1.5	A central record or file of copies of all bills of costs has been retained on a durable medium.
1.6	The CLC Practice has established and maintained proper accounting systems, procedures, processes and internal controls to ensure compliance with the Accounts Code.
1.7	Where it is possible to ascertain, the CLC Practice has accounted to their Clients as soon as possible after completion of any transaction or after any retainer has been terminated.
1.8	Where it is possible to ascertain, all monies held in client bank account have been paid promptly to the Rightful Recipient when due.
2	Postings to ledger accounts and casts:
2.1	All dealings with Client Money have been appropriately recorded in a client cash book.
2.2	All dealings with Client Money have been appropriately recorded on the client side of a separate client ledger account for each Client or each Client matter.
2.3	Postings have been recorded in chronological sequence starting with the first in time.
3	Receipts and payments of client money:

3.1	Sample receipts and payments of Client Money as shown in bank and building society statements have been compared with the records of receipts and payments of Client Money, and are correct.
3.2	The withdrawals from client bank account were made by payments other than in cash (i.e. CHAPS, BACS, Cheques etc).
3.3	Sample paid cheques have been obtained and details confirmed with payment records. (Where paid cheques are retained by the CLC Practice's Bank, copies of the selected sample of paid cheques will need to be obtained from the Bank).
3.4	A test examination of client ledger accounts have confirmed that no withdrawals on behalf of any Client exceeded the total of the money held to the credit of that Client.
3.5	If it is apparent from the test at 3.4 that withdrawals on behalf of a Client have exceeded the total of the money held to the credit of that Client, such overpayments have been corrected without delay.
3.6	Withdrawals from client bank account in respect of costs were properly required for or towards payment of the CLC Practice 's costs where there has been delivered to the Client a bill of costs or other written intimation of the amount of the costs.
3.7	Where money has been withdrawn from client bank account in respect of disbursements, the withdrawal related to the reimbursement of money:- A) already expended by the CLC Practice out of office account and evidenced on a durable medium, or B) for which the CLC Practice has incurred a liability to pay out of office account as evidenced on a durable medium.
4	System of recording costs and making transfers:
4.1	The payments or liabilities at 3.7 were debited to the client ledger before the monies were withdrawn from client bank account.
4.2	Transfers between client and office bank accounts have been recorded in both the client and office columns of the appropriate client ledger accounts.
4.3	The system of recording costs has been ascertained and is suitable.
4.4	The withdrawals from client bank account have been made by way of a cheque to the CLC Practice or by way of a transfer to the office bank account.
5	Examination of documents for verification of transactions and entries in accounting records:
5.1	A test examination of several client files has been made.
5.2	All client files requested for examination were made available.
5.3	The financial transactions evidenced by documents in the client files were correctly recorded in the books of account in a manner complying with the Accounts Code.
6	Office accounts:

6.1	Check such client office ledgers, cash books and bank and building society statements as the CLC Practice maintains with a view to ascertaining whether any Client Money has not been paid into a Client Account.
6.2	Investigate client office ledger credit balances and ensure that such balances do not include client money incorrectly held in Office Account.
6.3	In the event of client office ledger credit balances existing on client ledger accounts, the CLC Practice has investigated them and corrected the position without delay.
7	Client money not held in Client Account:
7.1	Has the CLC Practice disclosed any dealings in which money has been withheld from client bank account?
7.2	Has an appropriate written client instruction/acknowledgement or written authorisation from the CLC been received in each instance?
8	Authorised Withdrawals from Client Bank Account(s):
8.1	Cheques or other written instructions for withdrawal from Client bank account have been duly authorised by signatories to the Client bank account.
8.2	Where CHAPS terminals or other electronic systems have been used to withdraw monies from client bank account the system has been operated or authorised electronically by signatories to the Client bank account.
9	Client to Client Transfers:
9.1	All transfers of money from the ledger account of one Client to that of another Client have been effected in accordance with the Accounts Code.
10	Client ledger for Borrower and Lender:
10.1	When acting for both lender and borrower in a mortgage transaction and where the CLC Practice records transactions between them on one client ledger account, the funds belonging to each Client are clearly identifiable.
11	Deposit Interest:
11.1	Where appropriate, the CLC Practice has accounted to clients for interest earned in accordance with the Accounts Code.
12	Information and Explanations:
12.1	All records and explanations required have been received and satisfactorily cleared.
13	Reconciliations and extraction of client ledger balances:
13.1	The client bank reconciliation, extraction of client and office ledger balances and comparison between liabilities to Clients and cash available has been checked for a sample of reconciliations

13.2	All accounts, disclosed by the CLC Practice or the CLC Practice's Bank, containing client money have been included in the reconciliation.
13.3	The client bank reconciliation total is complete and correct having being calculated by the closing client bank account balance plus an accurate and complete list of outstanding lodgements less an accurate and complete list of unrepresented cheques.
13.4	The cash book balances at each of the dates selected have been reconciled to the balances in client account and elsewhere as confirmed directly by the relevant banks and building societies.
13.5	The client cash account balance is correctly calculated by the accurate and prompt recording of transactions.
13.6	All client ledger account balances as at the reconciliation date have been listed and totalled and no debit balances have been included in the total.
13.7	The total liabilities to clients as shown by such ledger accounts has been compared to the balance on the bank reconciliation statement and agreed.
13.8	Where the comparison in 13.6 and/or 13.7 have revealed differences, a reconciliation statement showing the cause of the differences has been prepared.
13.9	In the event of debit balances existing on client ledger accounts, the CLC Practice has investigated them and corrected the position without delay.
13.10	In the event of the reconciliations selected not agreeing, the differences have been investigated and corrected promptly.
13.11	The reconciliations were completed within 7 days of the reconciliation date to which they relate.
13.12	Each reconciliation selected has been satisfactorily completed without adjusting or balancing entries of the: <ul style="list-style-type: none"> • The Client ledger balances total; • The Client cash book(s) balances total; • The Client bank accounts total.
13.13	All client reconciliations were prepared at least once at the end of each calendar month.
13.14	Each reconciliation is in the form of a statement set out in a logical format which is likely to reveal any discrepancies.
13.15	The client bank reconciliation total has been compared with the balance on the client cash book(s).
13.16	The total of the client ledger credit balances has been compared with the balance on the client bank reconciliation statement.
13.17	Reconciliation statements have been retained on a durable medium.

13.18	In the event of the reconciliations selected not agreeing, reconciliation statements showing the cause of the differences have been prepared and the differences have been investigated and corrected promptly.
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Destination Table

New Provisions

Current Provision			Reworded and Simplified	Removed	Consolidated and Simplified	<i>Destination in proposed draft Code</i>
1.	Act with independence and integrity	Duplication of Code of Conduct		x		
2.	Maintain high standards of work	Duplication of Code of Conduct		x		
3.	Act in the best interests of your Clients	Duplication of Code of Conduct		x		
4.	You keep Client Money Safe	Duplication of Code of Conduct		x		
5.	You promote ethical practice and compliance with regulatory requirements	Duplication of Code of Conduct				
6.	You maintain proper governance, management, supervision, financial and risk management arrangements and controls					1.3
7.			x			3.3
8.				x		
9.						
9.1.1.			x			1.2
9.1.2.			x			2.2
9.1.3.			x			3.4
9.1.4.					Part of rules 9.1.4 and 6 combined	1.3
9.1.5.			x			3.6
9.1.6.			x			3.5
9.1.7.				x		

10. Payments into Client Account						
10.1.				x		
10.2.			x			3.7
10.3.				x		
10.4.				x		
10.4.1.				x		
10.4.2.				x		
10.4.3.			x			3.8
11. Money to be Withheld from Client Account						
11.1.				x		
11.1.1.				x		
11.1.2.				x		
12. Withdrawal and Transfer from Client Account						
12.1.1.			x			3.9
12.1.2.				x		
12.1.3.				x		
12.1.4.			x			4.1
12.2.			x			4.1
12.2.1.			x			4.1
12.2.2.			x			4.1
12.2.3.			x			4.1
12.2.4.				x		
12.2.5.			x			4.1
12.2.6.				x		
12.3.				x		
12.4.			x			
12.5.			x			3.5
12.6.				x		
12.7.				x		
12.8.			x			4.2
12.8.1.			x			4.2
12.8.2.			x			4.2
12.8.3.				x		

12.9.				x		
12.10.			x			4.1f
12.11.			x			4.2
12.12.						4.2
12.13.				x		
12.13.1.				x		
12.13.2.				x		
12.13.3.				x		
12.14.			x			4.3
13. Accounting Records						
13.1.			x			6.1
13.1.1.					x	6.5
13.1.2.					x	6.5
13.2.					x	6.5
13.2.1.					x	6.5
13.2.2.					x	6.5
13.3.					x	6.5
13.3.1.					x	6.5
13.3.2.					x	6.5
13.3.3.					x	6.5
13.4.				x		
13.4.1.				x		
13.4.2.				x		
13.4.3.				x		
13.5.			x			6.5
13.6.			x			6.5
13.7.				x		
13.8.			x			6.5
13.9.					x	6.7
13.9.1.					x	6.7
13.9.2.					x	6.7
13.9.3.					x	6.7
13.10.					x	6.7
13.10.1.					x	6.7
13.10.2.					x	6.7
13.11.				x		
13.12.						6.9
13.13.			x			6.10
13.14.			x			6.10
13.15.			x			6.10

13.16.			x			4.4
14. CLC Monitoring						
14.1.					x	1.4
14.2.					x	1.4
14.3.					x	1.5
14.4.				x		
15. Deposit Interest						
15.1.			x			3.10
15.2.				x		
15.3.			x			3.10
16. Accountants Reports						
16.1.			x			7.1
16.2.			x			7.2
16.3.				x		
16.4.			x			7.3
16.5.					Rule 16.5 and 16.6 combined	7.6
16.6.					Rule 16.5 and 16.6 combined	7.6
16.7.					x	7.7
16.8.						7.5
16.9.				x		
16.10.			x			7.4
16.11.				x		
16.12.				x		
17. General Saving Provisions						
17.1.				x		
18. Reporting Accountant's Terms of Engagement						
18.1.			x			7.5
18.2.			x			7.5
18.2.1.			x			7.5a
18.2.2.			x			7.5 b
18.2.3.			x			7.5c
18.2.4.			x			7.5d

18.2.5.			x			7.5e
18.2.6.			x			7.5f
18.3.			x			7.5g
18.3.1.			x			7.5g(i)
18.3.2.			x			7.5g(ii)
18.3.3.			x			7.5g(iii)
18.4.			x			7.5g(iv)

New Provisions

1.1	Who the Accounts Code applies to
2.1	Definition of Client Money
3.1	Definition of Client Account
3.1	How the Client Account may be used
4.1f	Circumstances in which money from a client account can be withdrawn without prior CLC authorisation when the criteria set out in 4.1(a)-(d) are not met
5.1	The criteria that must be met to enable the withdrawal of an aged balance (not exceeding £50) from client account
5.2	Any individual client balance in excess of £50 will still need to be authorised by and paid to the CLC