



## **DRAFT PROPOSED ACCOUNTS CODE**

### **1. General Provisions**

- 1.1 The requirements of the Accounts Code apply to all CLC Lawyers and 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 of the CLC Practice and ensure appropriate systems, procedures, processes and internal controls are in place to comply with the Accounts Code.
- 1.4 To monitor compliance with the Accounts Code, the CLC may at any time request information which 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 of information from clients, staff, service providers and banks. If requested, the CLC Practice will provide written permission to facilitate the provision of this information.
- 1.6 CLC Practices must comply with anti-money laundering and counter-terrorist financing legislation.

### **2. Client Account**

- 2.1 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.
- 2.2 A Client Account is used to hold Client Money, and must not be used as a banking facility for Clients.
- 2.3 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 any other services which are not CLC-regulated.

### **3. Client Money**

- 3.1 Client Money is any money held or received on behalf of a Client by a CLC Practice incidental to the provision of legal services regulated by the CLC.
- 3.2 Client Money must be paid into Client Account Without Delay.
- 3.3 Client Money must always be immediately available to be applied in accordance with the Client's instructions.
- 3.4 Any shortfall on Client Account must be replaced Without Delay.

- 3.5 The Client side of the Client ledger must not go into debit.
- 3.6 The Office side of the Client ledger must not go into credit.
- 3.7 The CLC Practice must pay money received into the Client Account if there is doubt whether it is wholly Office Money.
- 3.8 Money incorrectly paid into a Client Account must on discovery be transferred out of the Client Account Without Delay.
- 3.9 The CLC Practice must advise the CLC Without Delay of the discovery of any misappropriation of Client funds and must make good any shortfall from its Office Account Without Delay.
- 3.10 Interest earned on Client Money must be credited to the respective Client ledger. The CLC Practice must obtain informed written consent from the Client if it wishes to depart from this requirement.

#### **4. Withdrawals from Client Accounts**

- 4.1 The CLC Practice may only withdraw money from a Client Account if:
  - a. it is to make a payment to or on behalf of the Client
  - b. it is to pay an invoice for services provided by the CLC practice which has been properly submitted to the Client
  - c. it is to reimburse the CLC Practice for money paid out of the Office Account on behalf of the Client
  - d. it has been paid into the Client account in error
  - e. it is transferred to another Client Account
  - f. it is in compliance with 4.4.
- 4.2 Payments out of a Client Account must be approved by a duly authorised signatory to the Client Account and may only be made by:
  - a. cheque
  - b. electronic payment (BACS/CHAPS)
  - c. written bank instruction.
- 4.3 Money held in a Client Account must be paid to the Rightful Recipient as soon as there is no longer any proper reason to retain it.
- 4.4 Client Money may be withdrawn from a Client Account under 4.1(f) where there has been no movement on the Client ledger for over 12 months and the CLC Practice has:
  - a. established the identity of the Rightful Recipient
  - b. taken appropriate steps to return the Client Money to the Rightful Recipient (which have been unsuccessful), and
  - c. recorded the steps taken in accordance with requirement 4.4(a)-(b) and retained those records (together with all relevant documentation).
- 4.5 Having satisfied requirements 4.4(a)-(c), the CLC Practice may pay any Aged Balance not exceeding £50 to a nominated charity, to the Office Account, or to the CLC.

- 4.6 The CLC Practice remains liable to repay monies due to the Rightful Recipient unless they have been paid to the CLC, in which case the CLC is liable to pay monies due.
- 4.7 Any withdrawal of an Aged Balance exceeding £50 must be authorised by and paid to the CLC. The CLC will repay the Client Money when demanded by the Rightful Recipient.

## **5. Accounting Records**

- 5.1 The CLC Practice must update their Accounting Records at regular intervals, but not exceeding 30 days from the respective calendar month end.
- 5.2 Accounting Records must be drawn up in accordance with generally accepted accounting practices.
- 5.3 Accounting Records must be compiled by an individual with the appropriate skill and experience.
- 5.4 The accounting system must maintain accurate and chronological records of:
  - a. Client Money and Office Money transactions, with sufficient narrative to explain their purpose
  - b. the indebtedness of the CLC Practice to individual Clients
  - c. each Client's total indebtedness to the CLC Practice
  - d. individual transactions on individual Client Account ledgers
  - e. bills of costs which distinguish between costs, disbursements and VAT, and
  - f. the balance on any Client or Office ledger account (current and historic).
- 5.5 Bank reconciliation statements must be produced within seven (7) days of the respective calendar month end.
- 5.6 The reconciliation statement must compare the bank balance, the cash book balance and include a listing of reconciling items. Client bank accounts must also be reconciled to the Client Account listing.
- 5.7 Reconciling items need to be reviewed and cleared on a timely basis.
- 5.8 If accounting or cashiering functions are outsourced, the CLC Practice must have immediate and unrestricted access to its Accounting Records. The CLC Practice must maintain oversight of accounting and cashiering functions and remains responsible for the Accounting Records.
- 5.9 The CLC Practice must retain Accounting Records for no less than six (6) years.

## **6. Accountant's Report**

### ***CLC Practice responsibilities***

- 6.1 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.
- 6.2 The Accountant's Report must be delivered by the Reporting Accountant to the CLC within 6 months of the end of the Accounting Period.

- 6.3 The CLC Practice must immediately notify the CLC of any changes to the identity, address or any other relevant details of the Reporting Accountant.
- 6.4 The CLC Practice must supply the Reporting Accountant with any and all records and explanations required to exercise their duties.
- 6.5 The CLC Practice must apply to the CLC for consent to vary the Accounting Period.

***Reporting Accountant eligibility***

- 6.6 The Reporting Accountant must be a member of one of the following accounting bodies and must be in good standing at the time of signing the Accountant's Report:
- 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, or
  - d. the Association of Chartered Certified Accountants.
- 6.7 A person may not be a Reporting Accountant if:
- a. the accountant has been found guilty by a professional body of professional misconduct or equivalent
  - b. at any time between the beginning of the Accounting Period to which the Accountant's Report relates and the signing of the Accountant's Report, they were either a partner, employee or officer in the CLC Practice to which the Accountant's Report relates, or were employed by the same employer as the Authorised Person for whom the Accountant's Report is given, or
  - c. the CLC has disqualified the accountant from completing, signing and delivering an Accountant's Report because it is satisfied that the accountant:
    - i. has failed to exercise due care and skill in the preparation of an Accountant's Report, or
    - ii. has an actual or reasonably apparent conflict of interest.

***Reporting Accountant responsibilities***

- 6.8 The Reporting Accountant must be engaged to:
- a. determine whether the Accounts Code has been complied with, by examining:
    - i. internal controls, management oversight and supervision systems
    - ii. monthly Client Account reconciliations
    - iii. Client Account balances, transactions and shortfalls
  - b. complete, sign and deliver the Accountant's Report in the form required by the CLC with any supporting schedules to the CLC with a copy to the CLC Practice
  - c. 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. 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. concerns are raised with the CLC Practice in the course of their retainer
- e. retain the terms of engagement for at least 2 years after delivery of the Accountant's Report, and to provide the CLC with a copy on request.
- f. on request, provide the CLC any further relevant information relating to the compilation of the Accountant's Report.

6.9 By accepting the engagement the Reporting Accountant agrees that:

- a. the CLC will rely upon the content of the Accountant's Report
- b. a duty of care is owed by the Reporting Accountant to the CLC
- c. 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
- d. to the extent necessary to enable the Reporting Accountant to comply with the paragraphs 6.9(a)-(c), 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. Third Party Managed Accounts (TPMAs)**

7.1 Only a CLC Practice approved by the CLC may enter into arrangements with a Client to use a named TPMA provider.

7.2 Any application to the CLC to use a named TPMA provider must include such information and documentation as the CLC requires.

7.3 Use of a TPMA must not result in the CLC Practice receiving or holding Client funds.

7.4 The CLC Practice must take reasonable steps to ensure that the Client has been informed of and understands:

- a. the terms of the contractual arrangements relating to the use of the TPMA, and
- b. the Client's right to terminate the agreement and dispute payment requests made by the CLC Practice.

*19 May 2020*