

Statement

10 October 2019

The prescribed circumstances in which you can withdraw client money from client account to pay to a charity of your choice

Rule 5.1 (c) of the SRA Accounts Rules

Status

Rule 5.1 (c) of the SRA Accounts Rules (Accounts Rules) provide that client money can only be withdrawn from a client account on the SRA's prior written authorisation or in prescribed circumstances.

This mandatory statement prescribes the circumstances in which such withdrawals can be made without our prior written authorisation. These circumstances are limited to withdrawals of residual client account balances of less than £500 on any one client matter provided the balance is paid to a charity of your choice and if you have met the conditions set out

This statement must be complied with by all SRA authorised firms and their staff.

This statement may be revised or updated from time to time.

Introduction

The SRA Accounts Rules (Accounts Rules) require you to return client money promptly to the client, or third party for whom the money is held, (including refunds received after the client has been accounted to) as soon as there is no longer a proper reason to hold those funds (Rule 2.5).

A residual client account balance is money that you have not returned to your client at the end of a retainer and it is now difficult for you to do so as you cannot identify or trace the client.

Firms should, therefore, very rarely be holding residual client account balances.

However, you may withdraw residual client balances of less than £500 on any one client matter in the prescribed circumstances set out below.

Prescribed circumstances under Rule 5.1 (c)

You may withdraw residual client balances of less than £500 on any one client matter from a client account provided:

1. the balance is paid to a charity of your choice
2. you have taken reasonable steps to return the money to the rightful owner.
The reasonableness of such steps will depend on:
 - i. the age of the residual balance;
 - ii. the amount of the residual balance;
 - iii. if you have access to the client's most up to date contact details;
 - iv. if not, the costs associated with tracing your client.

We expect you to make more intensive efforts to locate the rightful owner for larger or more recent residual balances or for balances where more details are held about the client.

3. you record the steps taken to return the money to the rightful owner and retain those records, together with all relevant documentation for at least six years;
4. you keep appropriate accounting records, including:
 - i. a central register which records the name of the rightful owner on whose behalf the money was held, the amount, name of the recipient charity (and their charity number) and the date of the payment; and
 - ii. all receipts from the charity and confirmation of any indemnity provided against any legitimate claim subsequently made for the sum they have received.
5. you do not deduct from the residual balance any costs incurred in attempting to trace or communicate with the rightful owner.

The records referred to in points 3 and 4 above may be requested by your reporting accountant who will look at whether you have followed these prescribed circumstances.

For amounts over £500 you will need our authority before removing this money from the client account. Please use our application form.

Additional guidance

You may choose to pay the money to a charity that does not offer you an indemnity but if it does not, you will be liable to pay the money to the client if they contact you later to claim it.

Some ways in which you may be able to trace your client include:

- making use of social media
- making a search of Companies House and/or the Probate Registry
- making use of the Department of Work and Pensions' letter forwarding service
- undertaking any free searches on the internet.