



Office of the
Public Guardian

Public Guardian guidance

Solicitor client accounts

Summary

This guidance sets out OPG's position on how solicitor deputies should manage client accounts for persons who are subject to a deputyship order.

Context

Rule 3.3 of the Solicitors Regulation Authority (SRA) accounting rules provides as follows:

“You must not use a client account to provide banking facilities to clients or third parties. Payment into, and transfers or withdrawals from a client account must be in respect of the delivery by you of regulated services.”

The above regulation is intended to prevent client accounts being used for improper or criminal purposes including fraud and money laundering. It does not restrict the use of client accounts where there is a reasonable connection to an underlying legal transaction or recognised professional duties of a solicitor which you are providing. (Further guidance on this may be obtained from the SRA.)

The MCA Code of Practice states that funds should not be ‘mixed’ with those of other people. This would include not mixing them with the funds of other clients unless good reasons were provided.

OPG is of the view that holding monies on general client account does not constitute good reason, even when the protection that holding money in a solicitor’s client account is taken into consideration, for example the requirement for most firms to obtain an independent accountant’s report. The same protection would be afforded to a separate or designated client account that is segregated from the general account.

OPG’s position

OPG has no objection in principle to use of general client accounts as a temporary or holding position prior to deputies setting up segregated client accounts or separate bank accounts as expected, to manage ongoing transactions.

Solicitor deputies are reminded that there are factors other than the SRA’s that they may wish to consider.

The first is that in addition to SRA requirements, OPG will need to be satisfied that deputies have proper safeguards in place to protect deputyship funds. Deputies act under the authority of the court on behalf of vulnerable people, and extra care may need to be taken around who can authorise payments from deputyship funds.

Setting up a separate bank account for a deputyship with named signatories may be simpler in practice.

Secondly, a deputy has a general duty to act in the incapacitated person's best interests, which can include managing their funds to gain the best return. There will be cases where large balances in a client account will not represent the best investment strategy for a client.

In these cases, OPG will question the appropriateness of keeping significant excess funds in this way.

Professional deputies are reminded of [OPG's standards for professional deputies and the associated guidance](#).

Standard 4b states:

"Deputies must make sure that P's funds are kept separate and account management is fully transparent."

The additional guidance for standard 4b states:

"When appointed as a deputy you must open a deputyship account in P's name. Solicitors managing funds on behalf of P must adhere to the Solicitors Regulatory Authority (SRA) Accounts Rules."

Solicitor deputies are reminded that their management of funds should be organised with the best interests of their client in mind.

OPG continues to work with professional deputies to ensure that our supervision is proportionate and appropriate, and if you have any comments on this note or any other matter then please contact us.

For further information

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