

# Where Law & Money Meet: The Crucial Role of a Solicitor's Trust Account

Sharon Blake

Chief Trust Account Investigator, Law Society of NSW

# Meet the Presenter

The role of the Trust Accounting Department is to ascertain whether a law practice has complied with their obligations under Part 4.2 of the Uniform Law.

We liaise with over 8,000 law practices on trust related matters and are a key contributor to formal and informal continuing professional development for the legal profession.

**Sharon Blake**  
**MAcc, FCA, GAICD, CS, CGP and CA risk specialist**

Sharon is the Chief Trust Account Investigator and passionate about innovation in trust accounting.



# Today's Session:

Objective of today's is to provide you with a clear understanding of trust accounting, its importance, the rules governing it and best practices to ensure compliance and protect client monies.

What are the key components of trust account compliance?

01

What cybersecurity threats should you know about and how can you keep a trust account secure?

02

What's happening over the next 5 years?

03



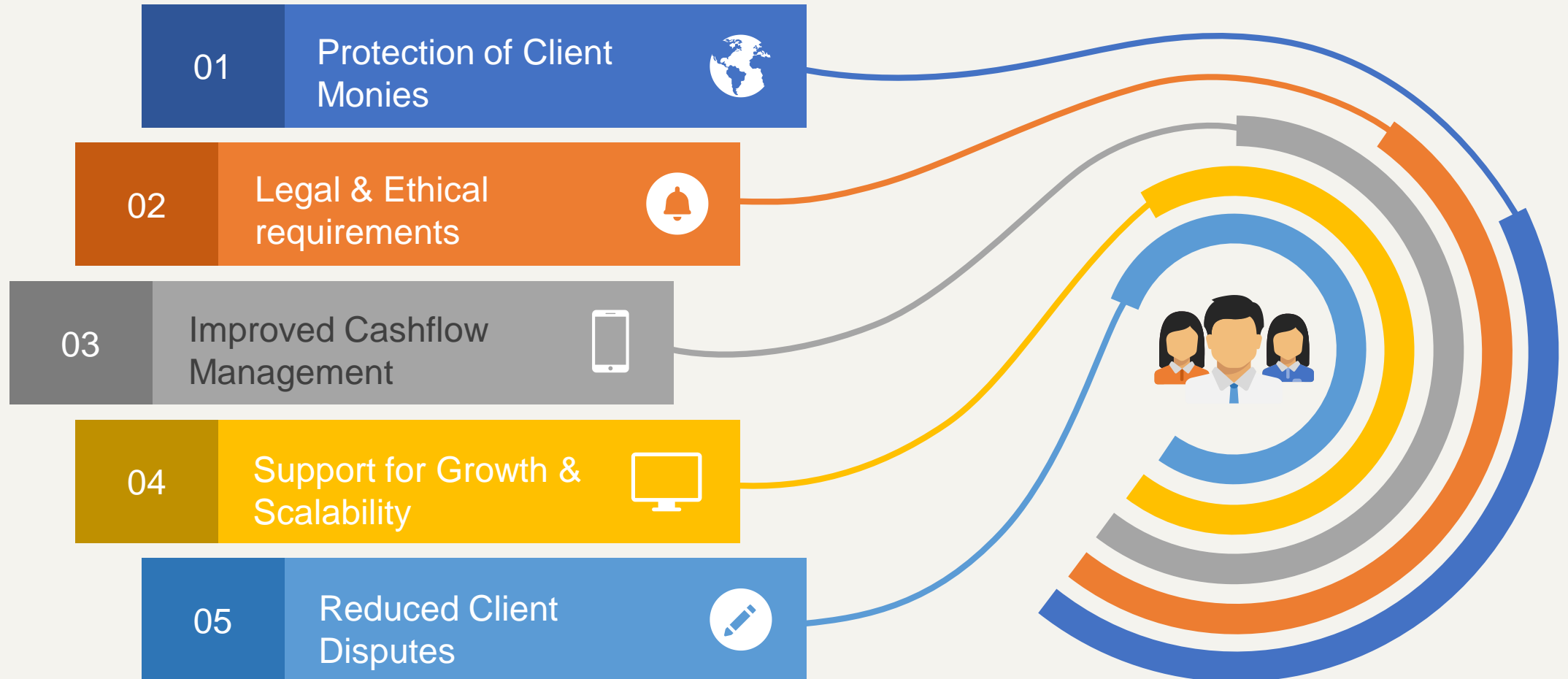
Reliability and integrity in the handling of trust funds are **fundamental prerequisites** in determining whether an individual is a fit and proper person to be entrusted with the responsibilities belonging to a solicitor.

Members of the public, many of them wholly inexperienced and unskilled in matters of business or of law, inevitably must put **great faith in the honesty of solicitors in handling money on their behalf.**

*(Law Society of New South Wales v Jones, Unreported, New South Wales Court of Appeal, 29th July 1978)*



# Why have a trust account?



# 1. What are the key components of trust account compliance?



Having a detailed knowledge of the Trust Accounting Legislation, obligations, responsibilities and trust account supervision



Knowing what is and isn't Trust Money



Know the record keeping requirements & key dates



Completing the annual submission via the Trust Lodgement Portal (Part A, B & EER)



Restoring Trust Account deficits



Notifying the Law Society of **any** Trust Account irregularity

# Legislation relevant to Trust Accounts

Uniform Law between NSW, Victoria and Western Australia to harmonise the regulation of the legal profession...



## Legal Profession Uniform Law (NSW)

Chapter 4, Part 4.2,  
**Sections 127 to 168**  
relate to trust money  
and trust accounts



## Legal Profession Uniform General Rules

- Chapter 4, Part 4.2,  
**Rules 33 to 69** relate  
to trust money and  
trust accounts
- Chapter 4, Part 4.2,  
**Rules 93 to 95A** –  
Registers



## Legal Profession Uniform Law Application Act 2014 (NSW)

- Section 11 designates the  
**Law Society as the  
designated local  
regulatory authority**  
(DLRA)
- Section 14 relates to  
**unclaimed money**
- Sections 46 and 47 relate to  
**Statutory Deposits**



## Legal Profession Uniform Law Application Regulation 2015 (NSW)

Part 3 Rules 9 to 12 relate to  
the calculation of the **statutory  
deposit**

# Responsibilities & Liability of Principals

Each principal of a law practice is responsible for ensuring that **reasonable steps** are taken to ensure that...**all** legal practitioner associates of the law practice **comply** with their obligations under this Law and the Uniform Rules and their other professional obligations

If a “law practice” contravenes any provision of the Uniform Law or Rules imposing an obligation on the law practice (whether by act or omission), a principal of the law practice is taken to have contravened the same provision if

- a) the principal **knowingly** authorised or permitted the contravention; or
- b) the principal was in, or ought reasonably to have been in, a **position to influence** the conduct of the law practice in relation to its contravention of the provision

and **failed to take reasonable steps** to prevent the contravention by the law practice.

✓ **Consequence:** Failure to uphold this responsibility may constitute unsatisfactory professional conduct or professional misconduct

✓ **Best Practice:**

- excellent business practices
- efficient governance arrangements
- systems & tools that are genuinely protective in character

✓ **Note:**  
Reasonable steps is not defined



## Section 34 & 35



# Holding, Disbursing & Accounting

Except as otherwise provided, a law practice must hold trust money deposited in the law practice's general trust account exclusively for the person on whose behalf it is received; and disburse the trust money only in accordance with a direction given by the person.

## ✓ **Note:**

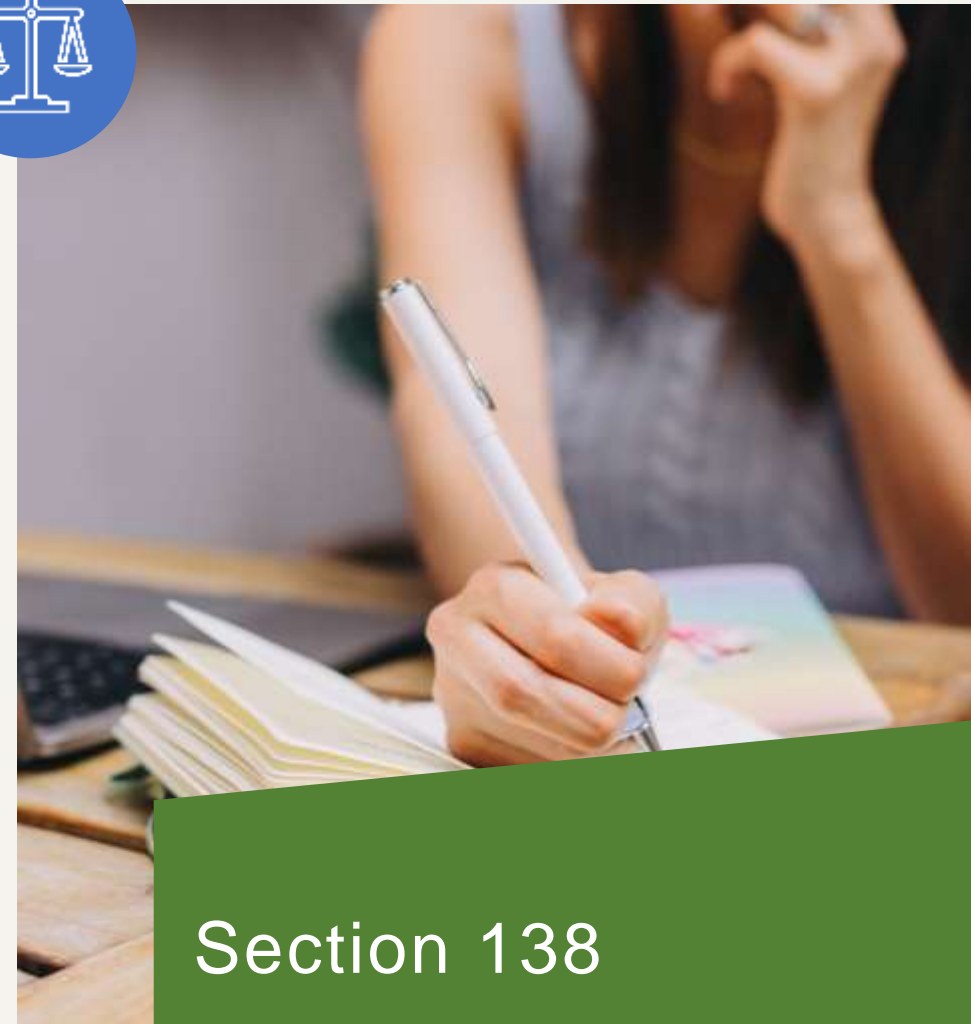
- It is key that before you disburse any money from your trust account that you are clear on who you are holding the money for and what matter
- Be wary of holding money as stakeholder



**Consequence:** 50  
penalty units



Check out my recent article in the Ethics and Standards Quarterly on:  
[Holding deposit money in conveyancing transactions](#)



## Section 138

# What is Trust Money?

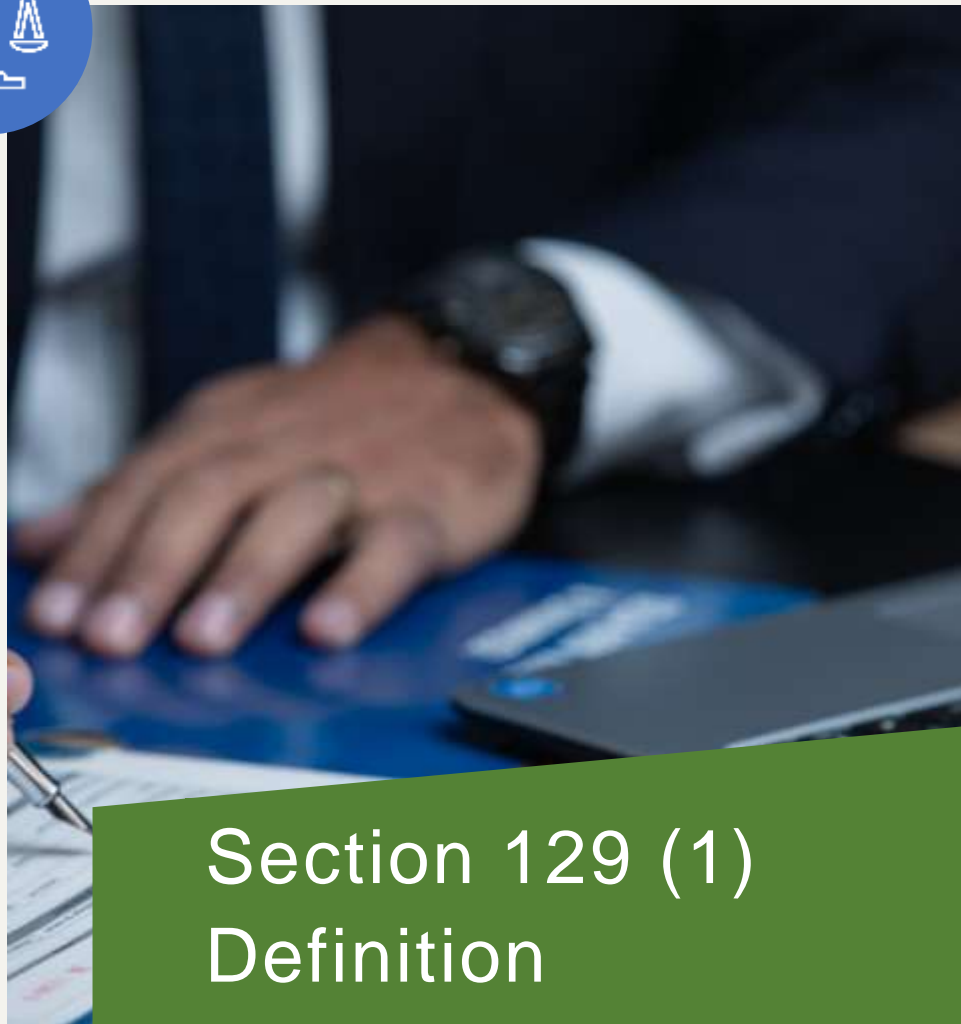


**money entrusted** to a law practice in the course of or in connection with the **provision of legal services** by the law practice, and includes:

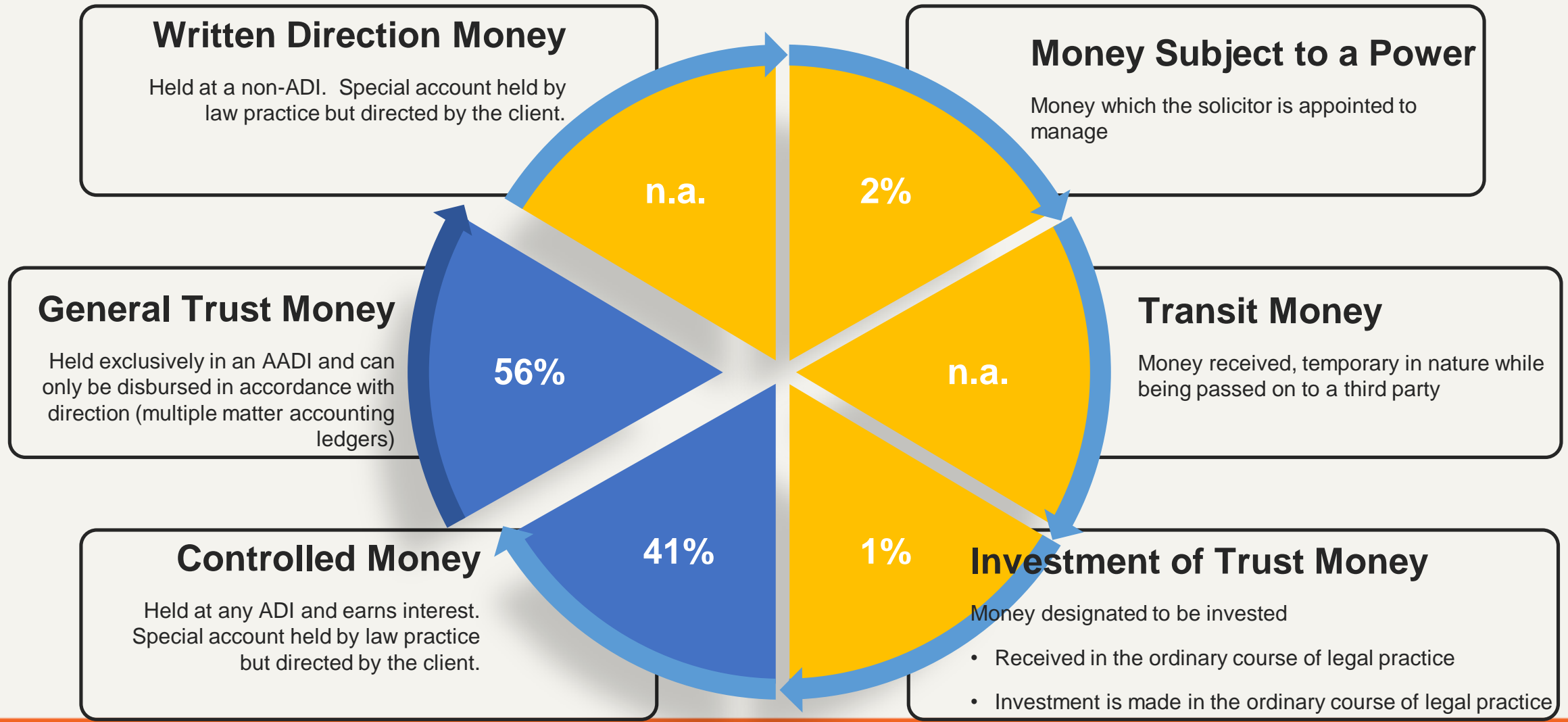
- money received on account of legal costs in advance of providing the services; and
- controlled money received by the law practice; and
- transit money received by the law practice; and
- money received by a law practice, that is the subject of a power exercisable by the law practice or an associate of the law practice, to deal with the money for or on behalf of another person

- ✓ **Best Practice:**
- If in doubt, refer to the Trust Money Decision Chart in the [Legal Accounting Handbook](#), which has been designed to assist in the identification of money received by a law practice.

## Section 129 (1) Definition



# Types of Trust Money

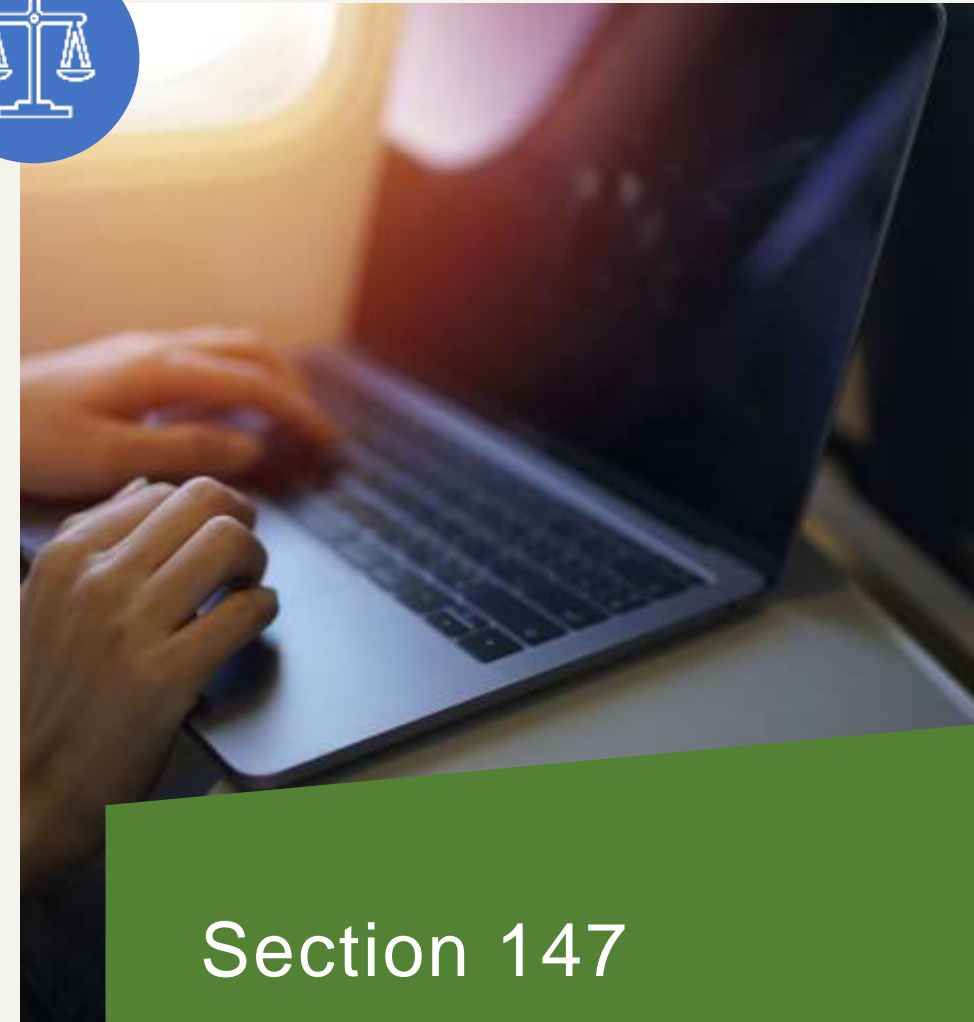


# Keeping Trust Records

The Uniform Rules prescribe in some detail how trust records are to be kept.

S147 demands that the **records indicate the trust position** in relation to trust account money received from any person and that they are kept in a way that allows for easy investigation, at all times.

- ✓ **Reconciliation Tips:**
  - Ensure prepared within 15 working days
  - Ensure unknown receipts of money are investigated
  - Ensure unexplained transfers/adjustments/payments are resolved
  - Ensure prior months adjustments are resolved
- ✓ Permanent form – meaning printed and in English
- ✓ Monthly backups kept at a separate location
- ✓ Maintained for a period of 7 years after the last transaction or finalisation of the matter (whichever is the later)



## Section 147

# Key Dates



15 Working Days

- complete the general trust bank reconciliation statement and trial balance statement
- complete the controlled money listing



5 Working Days

- enter each receipt or payment transaction into the cash book and then the relevant client ledger account
- enter journal transfer entries into client ledger accounts



30 April

- Confirmation of Trust Money (known as a Part A), regardless of whether trust money was held or received



31 May

- Statement of Trust Money (known as a Part B)
- External Examiner's Report

# Statutory Deposit

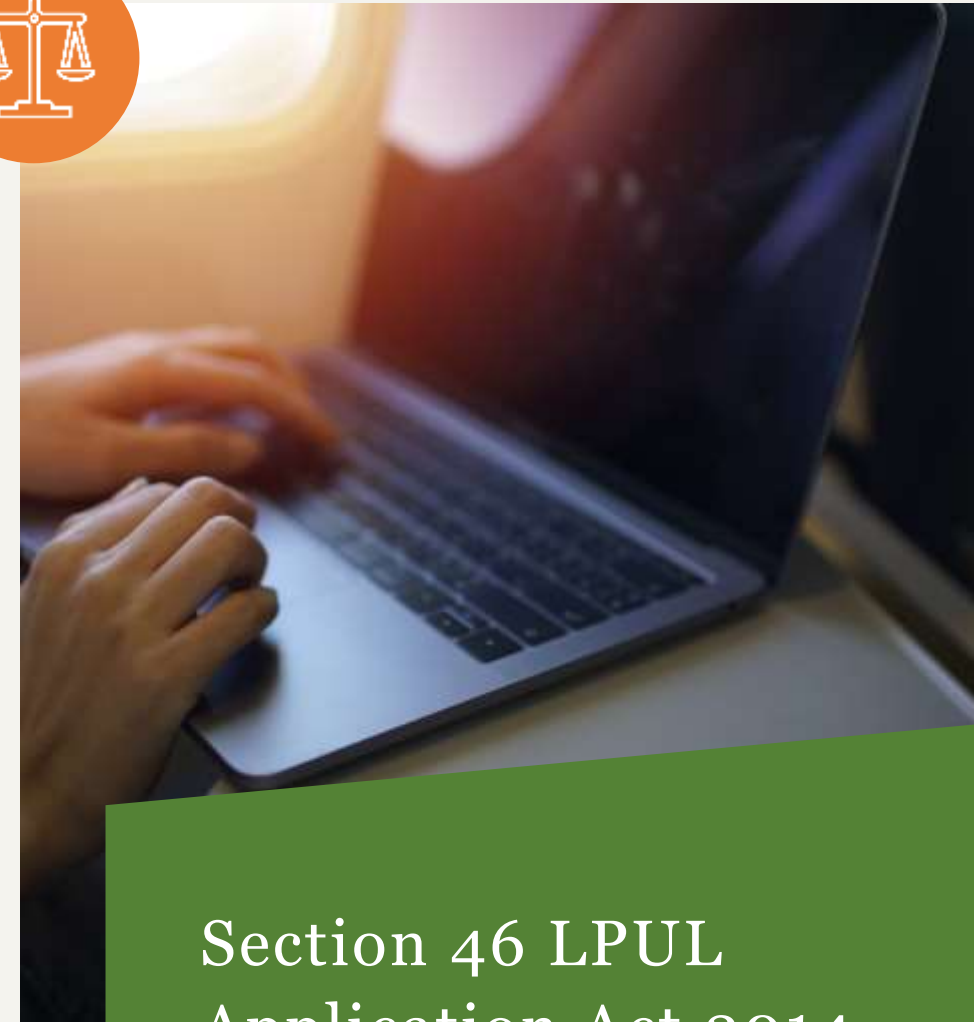
A percentage of a law practice's trust money is to be held in a statutory deposit account and not in the practices trust account itself.

This is calculated quarterly and the funds are deposited as required.

In NSW, we have a [calculator](#) on our website to calculate the statutory deposit amount.

## ✓ Tips:

- Income earned on the statutory deposits is paid into the Public Purpose Fund (PPF)
- The primary purpose is to support community-oriented initiatives such as the Pro Bono Scheme and Solicitor Referral Services and regulatory activities.
- ✓ Payment of a statutory deposit is recorded in the accounts the same way as any other payment out of the trust account
- ✓ Request for Determination of Statutory Deposit






Section 46 LPUL  
Application Act 2014



# Annual Confirmation & Statement of Trust Money

Trust Lodgement Portal launched in 2024 to streamline and enhance the process of complying with your annual obligations to:

-  **Part A** Lodge a Confirmation of Trust Money by 30 April in accordance with your obligations under rule 54 of the Uniform Rules, **regardless of whether trust money was held or received**; and if applicable
-  **Part B** Lodge a Statement of Trust Money by 31 May if you held or received trust money during the trust year (1 Apr – 31 Mar); and
-  **External Examiner Report** Ensure an EER is completed by a designated External Examiner by 31 May in accordance with your obligations under Section 155 of the Uniform Law.



# External Examiners

Section 155 requires the law practice must appoint a qualified examiner to annually examine the trust records.

The examination period is 12 months ending 31 March each year.

The external examiner is entitled to examine all of the law practice's trust records and examine the affairs of the law practice.

The External Examiner Report is submitted to the Law Society through the Trust Lodgement Portal .

## ✓ Who can be an examiner?

The law specifies that an external examiner must be:

- A registered auditor
- A member of the Chartered Accountants Australia and New Zealand
- A member of CPA Australia
- A member of the Institute of Public Accountants

✓ Failure to have an examination of trust accounts can lead to discipline of a lawyer

✓ Presentation of false records or the making of false statements to the external examiner can be ground for discipline of a lawyer



## Section 155



# Deficiency in Trust Account

A law practice, an Australian legal practitioner or any other person must not, without reasonable excuse, cause:

- A deficiency in any trust account or trust ledger account; or
- A failure to pay or deliver any trust money

✓ As reported by the [Sentencing Advisory Council](#) in Victoria, between 2017 and 2022, there were 19 charges of a lawyer causing a deficiency in a trust account and the charge was imprisonment (100%)

✓ **Note:**  
Deficiency is not defined

✓ **Best Practice:**

- Review regularly to ensure no deficit
- Restore all trust deficits, from office account if necessary

✓ **Consequence:**  
500 penalty units or imprisonment for 5 years



Section 148

# Reporting Irregularities

Reporting irregularities (or suspected irregularities) in relation to trust money is a mandatory requirement.

Solicitors must report all trust money irregularities (or suspected irregularities) to the Law Society, regardless of the monetary value of the irregularity.

✓ **Consequence:**

- *Breach of Section 154 (1)* - 50 penalty units (individual) or 250 penalty units (corporation)
- *Breach of Section 154 (2)* - 50 penalty units

✓ **Note:** Irregularity is not defined

- ✓ Check out my recent article in the Ethics and Standards Quarterly on: [The significance of reporting trust account irregularities](#)



## Section 154

## Risk Factors

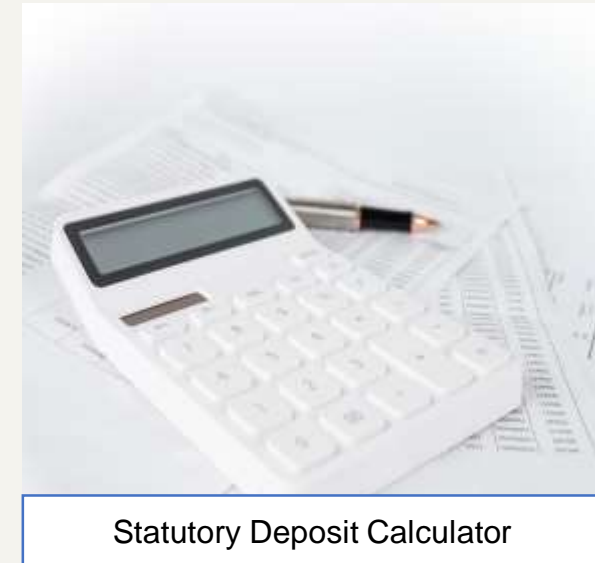
## Importance of Effective Risk Mgt & Internal Controls

## Best Practices

|   |  |   |
|---|--|---|
|  Misappropriation of funds |  Protecting client funds                   |  Segregation of duties & Dual authorisation        |
|  Fraudulent activities     |  Maintaining regulatory compliance         |  Document & record-keeping                         |
|  Unauthorised transactions |  Enhancing transparency and accountability |  Regular reconciliation, Internal audits & reviews |
|  Accounting errors         |  Preventing fraud and misappropriation     |  Compliance monitoring & reporting                 |
|  Accounting Omissions    |  Reputation                              |  Staff training & awareness                      |

# Trust Account Resources

Here are some resources to assist you (which are available on our website) including:





# 2. Trust Account Cybersecurity Threats

## Credential Theft

49% of data breaches involve the use of stolen credentials e.g. malicious email to trick lawyer into sharing login-information.

## Financial Redirection

Payments intercepted. After gaining access to your email, the fraudster will study your billing process and payment schedules

## Ransomware Attacks

Form of malware that encrypts files (from malicious email or website download). 6 law firms were targeted with GootLoader and SocGhosh malware (sending fake legal agreements and secretly adding malware hosting fraudulent blog posts to vulnerable WordPress sites Lawyers visit.

## Nation-state Attacks

Legal industry is a unique target for nation-state attacks. Russian-linked ransomware group ALPHV/Blackcat hacked HWL Ebsworth, stealing 3.6tb of client data (\$140m value)

## Supply Chain Attacks

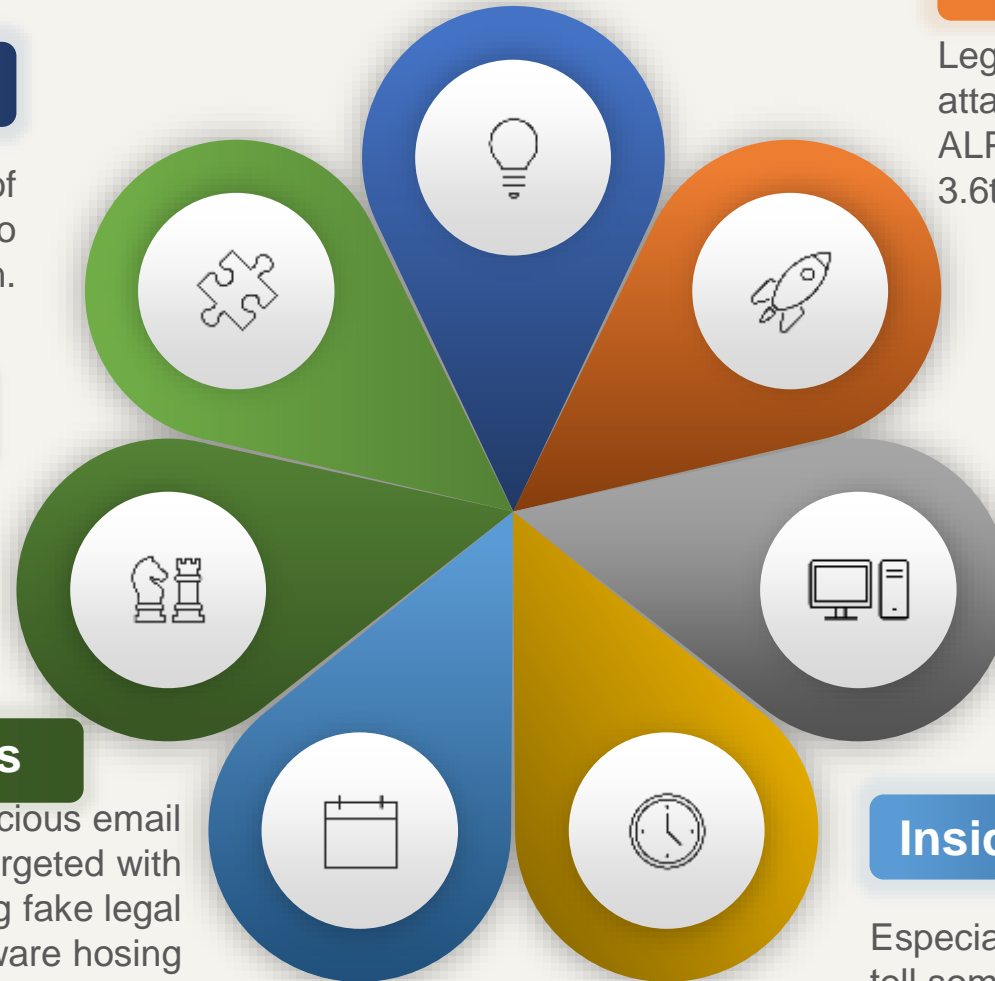
Threat actor targets a weak link. Small to medium sized law firms use a lot of vulnerable suppliers (finance, billing, payments platforms, air-conditioning, cleaning, ventilation, heating etc)

## Password Attacks

Using simple or the same password across multiple accounts

## Insider Threats

Especially hard to stop because there is no way to tell someone's intention when they access sensitive information



# How long does it take to crack a password, if.....

- ...your password has been previously stolen?
- ... your password uses dictionary words?
- ...you reuse it between websites?

Check if your email address or password has been involved in a data breach:

<https://haveibeenpwned.com/>

| Number of Characters | Numbers Only | Lowercase Letters | Upper and Lowercase Letters | Numbers, Upper and Lowercase Letters | Numbers, Upper and Lowercase Letters, Symbols |
|----------------------|--------------|-------------------|-----------------------------|--------------------------------------|---|
| 4                    | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 5                    | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 6                    | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 7                    | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 8                    | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 9                    | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 10                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 11                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 12                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 13                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 14                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 15                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 16                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 17                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |
| 18                   | Instantly    | Instantly         | Instantly                   | Instantly                            | Instantly                                     |

# How long does it take to crack a password?

Cybersecurity firm Hive Systems have produced some time estimates for a hacker to crack your password in 2024:

| Number of Characters | Numbers Only | Lowercase Letters | Upper and Lowercase Letters | Numbers, Upper and Lowercase Letters | Numbers, Upper and Lowercase Letters, Symbols |
|----------------------|--------------|-------------------|-----------------------------|--------------------------------------|---|
| 4                    | Instantly    | Instantly         | 3 secs                      | 6 secs                               | 9 secs  |
| 5                    | Instantly    | 4 secs            | 2 mins                      | 6 mins                               | 10 mins                                       |
| 6                    | Instantly    | 2 mins            | 2 hours                     | 6 hours                              | 12 hours                                      |
| 7                    | 4 secs       | 50 mins           | 4 days                      | 2 weeks                              | 1 month                                       |
| 8                    | 37 secs      | 22 hours          | 8 months                    | 3 years                              | 7 years                                       |
| 9                    | 6 mins       | 3 weeks           | 33 years                    | 161 years                            | 479 years                                     |
| 10                   | 1 hour       | 2 years           | 1k years                    | 9k years                             | 33k years                                     |
| 11                   | 10 hours     | 44 years          | 89k years                   | 618k years                           | 2m years                                      |
| 12                   | 4 days       | 1k years          | 4m years                    | 38m years                            | 164m years                                    |
| 13                   | 1 month      | 29k years         | 241m years                  | 2bn years                            | 11bn years                                    |
| 14                   | 1 year       | 766k years        | 12bn years                  | 147bn years                          | 805bn years                                   |
| 15                   | 12 years     | 19m years         | 652bn years                 | 9tn years                            | 56tn years                                    |
| 16                   | 119 years    | 517m years        | 33tn years                  | 566tn years                          | 3qd years                                     |
| 17                   | 1k years     | 13bn years        | 1qd years                   | 35qd years                           | 276qd years                                   |
| 18                   | 11k years    | 350bn years       | 91qd years                  | 2qn years                            | 19qn years                                    |



➤ Learn more about this at [hivesystems.com/password](https://hivesystems.com/password)

**TIME IT TAKES  
A HACKER TO  
BRUTE FORCE  
YOUR  
PASSWORD  
IN 2024**

Hardware: 12 x RTX 4090  
Password hash: bcrypt



# Practical ways to protect yourself online

## Update your devices

Making sure your devices are up to date is an easy way to boost your cyber security ([link](#)).

## Set up and perform regular backups

Learn how to make a copy of your files so you don't lose valuable data ([link](#)).

## Turn on multi-factor authentication

It's harder for people to guess your details when you have extra checks in place ([link](#)).



## Set secure passwords

Change your passwords to passphrases to improve your security online ([link](#)) and ensure employees are trained.

## Recognise and report scams

How to recognize scams and what to do if you become a victim of one ([link](#)).

## Watch out for threats

Learn how to identify common cyber attacks and defend yourself against them ([link](#)). Ensure employees are trained.



# Test Your Cyber Security

The Department of Industry, Science, Energy and Resources developed the [Cyber Security Assessment Tool](#) to help improve cyber security skills.

The assessment tool asks you questions about how you manage cyber security. With the assessment tool, you can:

- identify the cyber security strengths of your business
- understand areas where your business can improve
- know how to improve your cyber security and where to find help.

Based on your answers, it will determine your current cyber security maturity level.

- It will then provide you with guidance on how to improve.
- You can download the guidance to track your progress.

# Cyber Warden Training

It is an initiative of the Council of Small Business Organisations of Australia, supported by the Australian Government and an industry alliance led by Telstra, CommBank and the Australian Cyber Security Centre.

It is a free 45 min course where you can progress and complete as your schedule permits, topics include:

- Learn what it means to be a Cyber Warden and why cyber security matters.
- Learn the types of data and why it's important to keep your data protected.
- Learn the three basic steps to implement to protect your data and avoid cyber-attacks.
- Learn about the most common cyber-attacks faced and how to protect yourself against them.
- Learn the steps to take if you are scammed and how to recover from a cyber-attack.

[Enrol here](#)

# Cyber Security Resources

With Lawcover, we have developed a number of cyber security resources with Lawcover which are available on our [website](#), including:



## CYBER RISK MANAGEMENT CHECKLIST

- Payment processes and email fraud**
  - Before accepting and acting upon directions for payment that are provided by email, your organisation verifies the payment details by phone (not using the phone number included in the same email as the directions for payment).
  - You inform your customers and suppliers in writing that you will never send them an email changing your bank account details.
  - You advise your customers and suppliers in writing to contact you urgently if they receive an email from your organisation purporting to change payment details.
  - You regularly check your email set-up to ensure that there are no unexpected redirection rules in place (in Outlook, you can check this on the Home screen under Rules, then Manage Rules & Alerts).
- Staff risk awareness and training**
  - You have incorporated cyber risk awareness in your staff policies and training.
  - Your organisation has a "BYO device" security policy for staff members who are able to access work files on non-company devices such as smart phones, tablets or home computers.
  - You have advised all your staff members in writing of the importance of using passwords that are unique to the workplace only.
  - You and your staff automatically/regularly change your passwords every few weeks.
  - You have discussed with staff the risks associated with using free or unsecured WiFi, importing material onto the organisation's computer network through a USB drive, and taking confidential material outside the workplace via USB, mobile phone or laptop.
  - You have discussed with staff the risks associated with using free or unsecured WiFi, importing material onto the practice's computer network through a USB drive, and taking confidential material outside the workplace via USB, mobile phone or laptop.
  - Cyber risk awareness included in your induction material for new staff.



## DATA AND CYBER SECURITY FOR LAW PRACTICES

Knowing how to safely handle and store data is more important than ever in our rapidly growing information economy. This is all the more true for law practices who hold large amounts of personal information about clients and others, such as in the form of passports, driver's licences and bank account details, which may be accessible electronically.

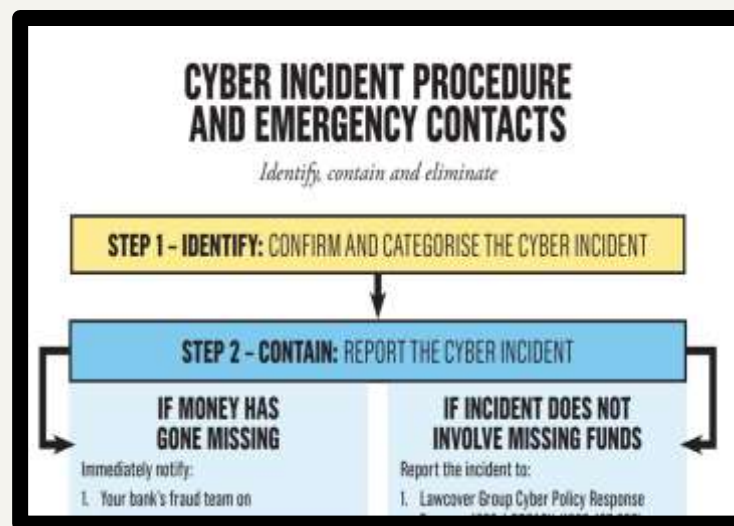
Solicitors have a duty to their clients to maintain the confidentiality of client information. But what does this mean for law practices providing legal services in a context of continually changing and emerging technologies? The Law Society and Lawcover provide the following outline of solicitors' obligations with respect to collecting and handling personal information and mitigating cyber risk.

### WHAT SHOULD I DO IF I FALL VICTIM TO A CYBERCRIME EVENT?

Good data security management includes having a clear policy and procedure for reporting data breaches. If your law practice is targeted by cybercrime, you should:

1. Call 1800 BREACH (1800 273 224) or email [breach@lawcover.com.au](mailto:breach@lawcover.com.au).
2. If the cybercrime relates to trust money, report the incident to the Law Society's Trust Accounts Department by emailing [trust@lawcover.com.au](mailto:trust@lawcover.com.au), who can then guide you further about the appropriate steps to take to mitigate risk.
3. Where applicable, comply with your obligations to notify an 'eligible data breach' under the Privacy Act 1988 (Cth) (the Privacy Act). This is discussed further below.
4. Report the incident to [www.cyber.gov.au/report](http://www.cyber.gov.au/report) and 'IDeare'.

### HOW DO I SAFEGUARD THE DATA MY LAW PRACTICE COLLECTS AND HOLDS?




## DON'T BE A VICTIM OF CYBER FRAUD

September 2023

Communications between solicitors and clients are increasingly susceptible to tampering by cyber criminals. The types of cyber fraud that pose significant risks to law practices and their clients are:

- 1. If we email payment instructions to you, telephone us to confirm account details.

**Take these steps to protect yourself against BEC and voice cloning scams:**

1. If we email payment instructions to you, telephone us to confirm account details.

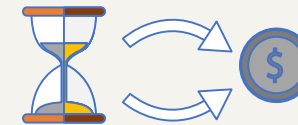
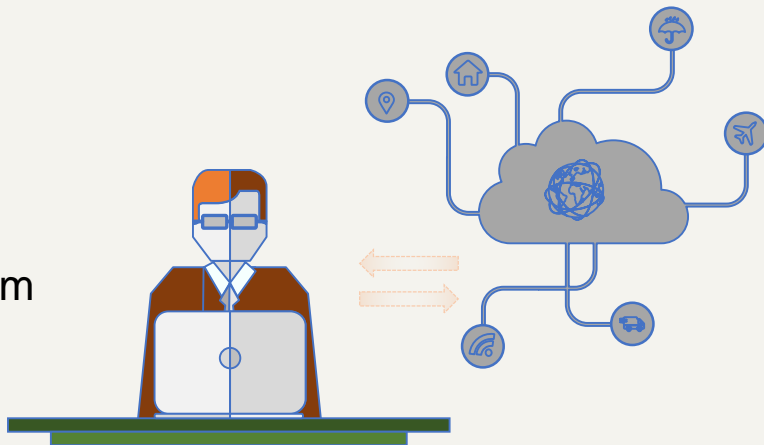
# 3. Trust Account Emerging Issues

Trust Year End  
31 Mar 2025



Cheques Transition  
Plan – 2 phase  
approach to shift  
away from the use of  
cheques.

AML & CTF Reform



Technology & Cyber  
Threats



# Law Society of NSW: AML/CTF Hub

In advance of the proposed changes, the Law Society has made available an [on demand interactive course](#) that informs practitioners on how they can strengthen their practice against money laundering (ML) and terrorism financing (TF) risks, based on their existing legal and ethical obligations.

- Access to the course is complimentary.
- This self-paced, CPD point claimable course covers what ML and TF are and provides background information regarding the anticipated reforms.
- The course also provides examples of situations which may indicate that there is ML or TF risk at play, along with suggestions on how to respond in such circumstances.

We will be updating this [hub](#) with the latest developments, resources and publications.



# National Legal Profession Anti-Money Laundering & Counter-Terrorism Financing Guidance

The Law Council developed the following to raise awareness of the risk of money laundering and terrorism financing to prevent legal practitioners from being unwittingly misused by financial criminals. It also provides some high-level guidance about actions that legal practitioners can take now to mitigate the risk of exposure to being involved in money laundering or terrorism financing:

- [Guidance Note No 1 – Why Should I Care About Money Laundering and Terrorism Financing?](#)
- [Guidance Note No 2 – What Does the Criminal Law Currently Provide, and What Are My Cash Reporting Obligations?](#)
- [Guidance Note No 3 – What Are My Professional Obligations?](#)
- [Guidance Note No 4 – What Does Money Laundering Look Like?](#)
- [Guidance Note No 5 – What Does Terrorism Financing Look Like?](#)
- [Guidance Note No 6 – How Do I Identify and Assess My Risk?](#)
- [Guidance Note No 7 – How Do I Mitigate and Manage My Risk?](#)
- [Guidance Note No 8 – How Do I Undertake Client Due Diligence?](#)
- [Guidance Note No 9 – How Do I Ascertain Source of Funds?](#)
- [Guidance Note No 10 – How Do I Check Whether Someone is a PEP?](#)
- [Guidance Note No 11 – Ceasing or Declining to Act](#)

# Ask me anything ?

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Linkedin: sharon-blake

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Tel: (02) 9926 0333

Website: <https://www.lawsociety.com.au/practising-law-in-NSW/trust-money-and-fidelity-funds>





*Thank you*