



Trust Safety Program Frequently Asked Questions

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Questions with Answers:

Trust Account Supervisor

- 1) Do all firms have to have a trust account supervisor, including the large firms?

Yes.

- 2) Are you allowed more than one trust account supervisor?

We encourage all practising lawyers to take the online education program to become more knowledgeable about the proper handling of trust money. Firms with more than one practising lawyer may want to have more than one lawyer who has completed and passed the online education, although each firm operating a trust account may only have one trust account supervisor. For firms that operate branch locations that are largely independent from the main branch, it is possible to have more than one trust account supervisor.

- 3) Are we allowed to delegate the completion of the monthly trust reconciliation, or must a trust account supervisor complete it?

Completion of the monthly trust reconciliation can be delegated, however the trust account supervisor is required to review and understand it so as to be satisfied that it is being completed within the deadlines imposed and is properly reconciled.

- 4) Is only the trust account supervisor allowed to have signing authority on the trust account?

Other lawyers in the firm may still have signing authorization on the trust account.

- 5) Is it sufficient to have a 2nd person within the firm be familiar with PC Law so I do not need to learn the program?

The answer will vary somewhat depending upon the size and nature of your practice. A sole practitioner with one support staff will need a different level of knowledge than a larger firm with multiple lawyers and multiple support staff. It is expected that at a minimum that the trust account supervisor will have access to the electronic accounting records (with your own username and password, as each user should have), and know the basics about navigating the program.

- 6) What happens if your trust account supervisor is incapacitated or dies?

The answer varies based on the size of the firm. Sole practitioners are encouraged to designate to the Society another member who will assume responsibility for their practice in the event of the sole practitioner's incapacity or death (in accordance with Practice Direction 89-04).

Firms with more than one lawyer are encouraged to have more than one lawyer complete the online education program so as to be knowledgeable about the requirements and, if necessary, be able to apply to be the firm's trust account supervisor in the event the firm's trust account supervisor is incapacitated.

- 7) If I'm a sole practitioner who is also a trust account supervisor, how do I arrange to go on a vacation? I know that I need to request permission of the CEO to have another lawyer who is not a member of my firm be able to sign cheques on my trust account while I'm away. Does this lawyer also need to be a trust account supervisor?

For shorter vacations, we assume that a sole practitioner has organized the practice so as to minimize the duties of the alternate signing authority. In that situation, alternate signatories approved by the CEO do not necessarily have to be trust account supervisors.

Should you be away for a longer absence, you may need to have a trust account supervisor as your alternate.

- 8) Can a sole practitioner apply to be their own trust account supervisor?

Yes.

- 9) If one is a sole practitioner, is it automatic that he or she will be approved as the trust account supervisor?

No, approval of a sole practitioner is not automatic. The same criteria are applied to all applicants, as set out in the trust safety program guideline.

- 10) The trust safety program applies to Manitoba law firms. For members who also hold practising status with the Law Society of another province, and who practice in a law firm in that other province, would that firm be required to have a Law Society of Manitoba approved trust account supervisor?

If you have practising status in Manitoba which involves trust money, you must have a trust account supervisor in Manitoba. Trust accounts in other jurisdictions are subject to that jurisdiction's rules.

- 11) For inter-provincial firms, can you delegate the reconciliations to the accounting department out of province?

Yes, provided that the trust account supervisor maintains the appropriate level of oversight of such a delegation.

- 12) Can a non-practising or inactive member be a trust account supervisor?

No, a trust account supervisor must be a practising member.

- 13) If you are a sole practitioner and do not maintain a trust account, you don't need to apply or take this training, right?

Correct.

Reporting

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- 14) Do I still need to complete the annual member report now that the trust safety program is in place?

Yes, the annual member report still needs to be completed. It is the annual trust account report (commonly referred to as a self-report or form D) that no longer needs to be completed.

- 15) How will the new report attached to the annual member report be different from the annual trust account report?

The required information will be significantly less than the annual trust account report (approximately 2-3 pages of questions instead of 26 pages).

- 16) Do I still have to file an annual trust account report?

No.

- 17) How long will it take to complete the online education and exam?

The length of time will depend on your experience. Lawyers who have been operating a trust account for many years will likely complete the online education faster than someone who has never operated a trust account before.

- 18) Will the online education course count for any CPD?

Yes. To be eligible for CPD credit, you must complete the exam. Upon completion of the exam, you will get credited for three hours of CPD.

- 19) Will the online exam be open book?

Yes

- 20) How soon can a lawyer apply?

Now. Firms that currently operate a trust account will need to use this [form](#) while new firms who apply after April 1, 2019 will need to use this [form](#).

- 21) How soon can a lawyer take the educational program to become a trust account supervisor?

The online education course and exam will be available April 1, 2019.

- 22) For students hoping to open a firm after their call to the bar, would they be able to complete the education and exam prior to their call?

Yes.

- 23) Can you apply and train "just in case" you might want to set up a new firm, but no specific date for that in mind?

Yes. However, the length of time between when the course/exam was completed would be a consideration in the approval process (a number of months v. a number of years).

Costs

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- 24) I understand that the lawyer will be responsible for the costs of the conditional approval review, but will the spot audits/check ups continue to remain free of charge for the average trust account supervisor?

Yes, other than expense recovery for a conditionally approved firm under rule 5-42.2(3), all related audit department contact with law firms including an audit or check up will not normally be charged to the firm or the trust account supervisor.

- 25) In the conditional approval (which has the cost recovery system), what kind of costs would that involve?

It would generally be the time spent in the audit department by an auditor or the director, but may also include time of a Society lawyer, depending upon the circumstances.

New Firm

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- 26) I'm a practising lawyer, but my firm doesn't operate a trust account currently. Can I still open a trust account tomorrow?

Prior to April 1, 2019, a practising lawyer can open a trust account without prior notice or application to the Society. The Society must be notified of the account within 30 days of it being opened. After April 1, 2019, NO trust account may be opened unless it is opened by a trust account supervisor.

Approvals

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- 27) Do you have an estimated time for how long the approval process will take at the Law Society?

We will process applications on a first-come, first-served basis, so the earlier you apply the earlier you will receive a response. From past experience with annual trust account reports, we expect the highest volume of applications to arrive quite close to the deadline, and it will take longer to respond to those than earlier applications. So, you are encouraged to submit your application as early as possible.

- 28) Who at the Law Society actually issues the approval?

A member of the audit department will be writing to applicants to advise of the result of the application.

29) When you talk about governability, what do you mean?

Governability refers to a member's willingness to comply with the Law Society rules, including responding to Society correspondence.

30) Is it possible to e-mail or fax the application to the Law Society instead of sending by mail?

Yes.

31) If I am denied or my privilege to run a trust account is revoked, would there be an ability to re-apply at some point?

Yes.

Appeals

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32) Who are the people sitting on the appeal panel?

Members of the trust safety appeal committee – comprised of benchers, volunteer lawyers, and public representatives.

33) Are there costs associated with the appeal process?

As with any appeal, there is the possibility of costs being assessed at the conclusion of the appeal.

Designated Trust Account Supervisor

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34) Can I enter into a contractual arrangement with another firm for one of their lawyers to be my trust account supervisor?

Yes, the lawyer who is willing to take on this role would need to apply the Society to be a designated trust account supervisor for your firm's trust account, have the application approved and complete the education and exam requirement.

35) In a building that houses multiple firms, could one lawyer within any of those firms be the trust account supervisor for each of the firms?

Yes, subject to that person receiving approval and completing the education and exam.

36) If you're asked to be the trust account supervisor for another member, how much due diligence do you need to do?

The degree of diligence will depend upon the issues that need to be addressed in the firm.

- 37) Is being insured conditional on passing this exam? Who keeps our insurer advised of our status as a trust account supervisor?

Insurance and trust account supervisor status are unrelated and there is no need to report your status as a trust account supervisor to the insurer.

- 38) Will the Law Society be approving accounting software as part of the trust safety program?

The trust safety program does not change the Society's practice of not reviewing or endorsing particular accounting software. We educate lawyers on the minimum requirements for the accounting records and reporting (for manual and electronic accounting records) and it is the trust account supervisor's responsibility to ensure the record keeping system selected complies with our requirements. If a system is found to not comply with our requirements and necessary modifications to address the shortcomings cannot be made, a firm would not be allowed to use that system.