



Rule change application cover sheet

Summary of proposed rule changes (or list proposed new, or revised rules which are the subject of this application)
<p>The CLC's proposed amendments are to:</p> <ul style="list-style-type: none"> a. Simplify the Code by removing unnecessary barriers and restrictions to ensure the Code is appropriate and proportionate. b. Introduce a new self-certification scheme for aged balances up to £50. c. Make provision for the use of Third Party Managed Accounts (TPMAs). <p>A destination table comparing the provisions of the current and proposed Code and a list of new provisions is appended.</p>

LSB Rule change application checklist	Relevant section in CLC Application	(tick)
Contact details for individual submitting application	Section K	✓
Details of proposed alteration	In Accounts Code (Annex B)	✓
Tracked changes version of changes included	changes summarised at paras 16 to 51 and detailed in Destination Table (Annex A)	✓
Nature and effect of proposed alteration (explain existing arrangements, current arrangements and why proposed change is being made)	Section D	✓
Explain impact on the regulatory objectives	Section E	✓
Explain how the proposed changes align with Better Regulation principles	Section F	✓
Explain desired outcome of the proposed alteration and plans to monitor and assess whether it has been achieved (include timeframe)	Section I	✓
Does the proposed alteration affect areas regulated by other approved regulators? If so, have you consulted them?	Section J	✓
Include intended implementation date of proposed alteration	Para 15 and Section J	✓
Full details of the consultation process (including responses and how you have addressed them)	Section H	✓
Accessibility checked	Section L	✓
Other relevant explanatory material	Annexed	✓



Regulating
Property
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Probate
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Application made by the Council for Licensed Conveyancers

To the Legal Services Board

**For approval of amendments to the CLC's Regulatory Arrangements pursuant to revision of
the CLC Accounts Code**

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B. Introduction

2. The Council for Licensed Conveyancers (CLC) is seeking approval from the Legal Services Board (LSB) for proposed changes to its Regulatory Arrangements.
3. This application relates to the revision of the CLC Accounts Code (the Code), with the proposed Code at **Annex B**. A destination table comparing the provisions of the current and proposed codes is at **Annex A**. The CLC is asking the LSB to approve the proposed Accounts Code with the intent that it will come into force on the 30 September 2020.
4. The current version of the Accounts Code is available at clc-uk.org/handbook
5. The Accounts Code Guidance has been revised and is now two separate guidance documents. These are the Aged Balances Guidance and the Third Party Managed Accounts (TPMA) Guidance. The revised guidance at **Annexes C and D** is included for context and information only and is not submitted for approval by the LSB.
6. The proposed new simplified Accountant's Report template and guidance at **Annex G** is included for information only.
7. Misuse of Client Money is a key risk to consumers that the CLC aims to minimise. A combination of outcomes in the Code of Conduct and Accounts Code seek to ensure the safety of Client Money at all times.
8. While ensuring that appropriate levels of consumer protection are maintained, the CLC's objective in reviewing and amending the Code is to:
 - a. Remove any unnecessary and/or disproportionate regulatory burden.
 - b. Provide greater flexibility for CLC lawyers and practices to participate in a diverse legal market, increasing access to the public and the quality of legal services.
 - c. Provide greater clarity for CLC lawyers and practices so that the CLC's expectations are easily understood.
 - d. Future-proof the Code as much as possible.

- e. Foster innovation and competition in the legal services market.
 - f. Maintain appropriate consumer protection.
9. The purpose of the CLC's proposed revision is to:
- a. Simplify the Code by removing unnecessary barriers and restrictions to ensure the Code is appropriate and proportionate.
 - b. Introduce a new self-certification scheme for aged balances up to £50.
 - c. Make provision for the use of Third Party Managed Accounts (TPMAs).

C. Chronology

10. The proposals in this application were developed following:
- a. An initial consultation starting in February 2017 and running for 12 weeks, which received 14 responses.
 - b. Four workshops in different locations around the country attended by 42 CLC-regulated practices.
11. A second consultation on the proposals in this application ran between 17 April and 21 June 2019. The CLC received 10 responses from CLC practices, the Legal Services Consumer Panel, the Society of Licensed Conveyancers, one accountancy practice, and two TPMA providers.
12. A third consultation on the revised Aged Balances Guidance and the TPMA Guidance ran for six weeks from 13 February 2020 and received no responses.
13. The Accounts Code was made by the CLC Council at its meeting on 30 April 2020 and is being published in draft form subject to approval of the LSB so that CLC practices and other stakeholders have as long a period as possible to familiarise themselves with the new Accounts Code before it comes into force.
14. The final version of the Accounts Code will be published after changes to the CLC's regulatory arrangements have been approved by the LSB.
15. It is intended that the revised CLC Accounts Code will come into force on 30 September 2020.

D. Nature and effect of the current regulatory requirements, the proposed alterations, rationale for alterations

Insertion of definitions of Client Money and Client Account

16. Definitions of Client Money and Client Account have been inserted as proposed new sections 2.1 and 3.1. The current Code does not include these definitions, although they are the same as those already in use and included in the CLC Glossary of Legal Terms.
17. The definitions have been included simply for context and to improve the usability of the Code.

Simplifying aspects of the Accounts Code and removing duplication

18. The Destination Table (Annex A) sets out a full comparison of provisions in the current Code with the proposed Code, as well as a list of new provisions.

19. The length of the current Code and Guidance (10 pages each) contributes to the difficulty that some CLC lawyers have with understanding and complying with the rules. There is some unnecessary repetition and cross-referencing in the current Code.
20. Simpler, more targeted requirements will make the Code easier to understand, improving compliance and consumer protection.
21. Key changes made in the simplification of the Code are:
 - a. Clarifying who is responsible for ensuring compliance with the Code, by making all managers responsible for the practice's compliance (rules 1.2 and 1.3 of the new Code; current rules 9.1.1 and 9.1.4).
 - b. Removing references to the CLC Code of Conduct and Overriding principles (paragraphs 1-5 and 7) to reduce any misunderstanding about the scope of the managers' responsibilities and reduce the length of the Code by minimising repetition and cross-referencing.
 - c. Removing overly-prescriptive requirements on the frequency for updating Accounting Records to provide greater flexibility for practices in their management of Accounting Records (new rules 6.1-6.9) and to enable them to comply with current best accounting practice.
 - d. Requiring all Accounting Records to be kept for a minimum of 6 years (rule 5.9). The current Code states some records only need to be kept for 2 years (current rules 13.13 and 13.14). This amendment removes an unnecessary distinction from the Code.
 - e. Removing detailed provisions in the Accounts Code that dictate the form that an Accountant's Report must take, as this detail is already in the Accountant's Report template.
22. Simplifying the Code in the way described promotes the regulatory objectives as set out at section D of this application.
23. The most important elements of the current Accounts Code which have been **omitted** from the draft Accounts Code and the rationale for these omissions can be summarised as follows (see destination table):
 - a. Paragraphs 10.3 and 10.4 refer to Designated Accounts, which do not require any provisions different from monies held in other Client Accounts. The permissive requirement in 10.4.1 to allow non-Client Money in a Client Account to enable it to stay open is outdated. The requirement to remedy any breach of the Accounts Code without Delay is provided for in paragraph 3.4 of the proposed Code, justifying the removal of current paragraph 10.4.2.
 - b. Paragraph 11 of the current code permits a client to instruct a practice not to pay client money into the Client Account. This has been removed as it is not good practice and presents a significant money laundering risk.
 - c. Paragraphs 12.1-12.7; 12.9-12.11 are omitted to remove unnecessary duplication and provisions relating to transfers of money between the clients of a practice.
 - d. Paragraph 13: removal of the prescriptive elements of keeping accounting records and carrying out reconciliations which are covered by proposed new paragraphs 5.2 and 5.3, which require records to be drawn up in accordance with generally accepted

accounting practice and completed by an individual with the appropriate skills and experience.

24. The CLC tested the viability and practicality of the revised and simplified Code by consulting with relevant stakeholders (see section H of this application). Seven of the 10 respondents agreed that it was clearer and easier to understand and apply. The other three respondents (2 TPMA providers and accountancy practice) did not answer this question.

Who may not act as a Reporting Accountant

25. Rule 16.7 (proposed new rule 6.7) provides a mechanism enabling the CLC (where appropriate) to prevent an accountant from acting as a Reporting Accountant and signing off an Accountant's Report. 16.7.1 is transposed to 6.7b, one subsection has been added at 6.7a, and 16.7.2 has been further clarified in 6.7c.
26. New subsection 6.7a will prevent an accountant from being a Reporting Accountant if they have been found guilty of misconduct by their accountancy professional body, or by the CLC (or another approved regulator) either while acting as a lawyer or as a HoFA or manager of a legal practice.
27. 6.7c clarifies the circumstances in which the CLC can disqualify an accountant from signing off an Accountant's Report. Subparagraph 6.7c (ii) deals with conflicts of interest not covered by 6.7b, for example where the accountant is related to or otherwise connected to the managers of a practice (i.e. due to a financial interest).
28. It should be noted that this amendment was not included in any of the consultations (April-June 2019) but was suggested and approved by the CLC Council in May 2020. We do not consider that public consultation on the amendment is necessary given that its main purpose is clarification and increasing consumer protection.

Treatment of Aged Balances

Existing regulatory arrangement

29. At the end of a transaction there may be a residual balance in a Client Account. Practices are required by the Code to repay this money to the Rightful Recipient as soon as there is no longer a reason to hold it. Sometimes it is not possible to repay these monies because, for example, the Client has changed their contact details.
30. Current rules state that if it has not been possible to account for all monies on a Client ledger, practices must obtain authorisation from the CLC as to how the balance should be applied. When applying for authorisation a practice must provide evidence of the steps taken to identify and trace the Rightful Recipient of the money.
31. If the amount is less than £20, the CLC may allow the money to be transferred to the Office Account. If the amount is above £20, the money will only be allowed to be paid to the CLC and then paid into the Compensation Fund.

Proposed alteration

32. The CLC is proposing to introduce a new self-certification scheme for aged balances up to £50 in relation to any one individual client, without CLC authorisation. The practice will be able to pay this money to the CLC, into the Office Account, or donate it to a nominated charity. The proposed rules are at rule 4.4 to 4.7 of the revised Code.
33. Before a practice is able to withdraw an Aged Balance from a Client Account they will be required to establish the identity of the Rightful Recipient; take appropriate steps to return

the money which are unsuccessful; and record and retain a record of the steps they have taken.

34. The CLC recognises that there are risks in removing the obligation to obtain authorisation. However, these risks are adequately addressed by safeguards built into the new system:
 - a. Amounts larger than £50 will still require CLC authorisation
 - b. Managers will have the responsibility of ensuring that practices take appropriate steps to pay Aged Balances to Rightful Recipients
 - c. Reporting Accountants will be required to check for compliance with the new rules when preparing the Accountant's Report.
35. To further manage any risk, the CLC will issue revised guidance for Aged Balances (Annex C) and will carry out a review within two years to identify and assess any unintended or negative impacts.

Rationale

36. The introduction of a self-certifiable amount of up to £50 is a proportionate measure that will reduce the regulatory and administrative burden on CLC practices.
37. Client Money is still protected as the practice or the CLC remains liable to repay the money to the Rightful Recipient if demanded.

Revised template for the Accountant's Report

Existing Arrangements

38. The Accounts Code requires all practices to obtain an Accountant's Report at the end of each Accounting Period and prescribes that the relevant tests, checks, and procedures that must be undertaken by the Reporting Accountant to determine a practice's compliance.
39. Rule 16.12 sets out that the Accountant's Report must be delivered to the CLC with the completed checklist in the form prescribed by the CLC.

Proposed Alteration

40. The CLC proposes to amend the format of the Accountant's Report and remove some of the prescribed testing to place greater reliance on the professional judgement of the Reporting Accountant.
41. No changes are proposed to the skill and expertise requirements for Reporting Accountants already in the Code (new rules 6.6 and 6.7; current rules 16.6 to 16.7.2).
42. The proposed new Accountant's Report and Guidance are at Annex G for information.

Third Party Managed Accounts

Existing Regulatory Arrangements

43. Existing regulatory arrangements are silent on the use of TPMA's.
44. Money held in a TPMA is not held by a CLC lawyer or practice and therefore does not meet the definition of Client Money. This means that the provisions of the Accounts Code do not apply. A CLC practice can apply to the CLC to waive the requirement to submit an Accountant's Report if it can demonstrate it has not handled any Client Money in an accounting period.

Proposed Alteration

45. The CLC proposes that the Code should explicitly permit the use of TPMA's as an alternative to a Client Account where the TPMA has adequate consumer protection measures in place (new rules 7.1-7.4). This means that although money held in a TPMA will still not be Client Money, proposed section 7 of the new Code will still apply in respect of that money.
46. Before entering into an arrangement with a TPMA provider the CLC Practice must apply to and be approved by the CLC to enter into such arrangements.
47. The practice must take reasonable steps to ensure that the client has been informed of and understands the terms of the contractual arrangements, and their right to terminate the agreement and dispute payment requests made by the CLC Practice.
48. The requirement that a TPMA is FCA-regulated and authorised is contained in the proposed definition of TPMA to be included in the CLC Glossary of Legal Terms at Annex E.
49. Detailed guidance on the use of TPMA's as an alternative to Client Accounts will set out the minimum protections a practice must ensure are in place, as well as the requirements for record-keeping. This guidance is at Annex D.

Rationale

50. Explicitly allowing the use of a TPMA will mean that CLC-regulated firms have more choice and flexibility in the operation of their business. Having the option to not use a Client Account could enable a practice to reallocate resources to focus on the quality and competitiveness of its services.
51. Explicitly allowing for TPMA's in the Code increases transparency and improves trust and confidence in the regulated community and among consumers.

E. Statement in respect of the Regulatory Objectives

52. All proposed amendments have a positive or neutral impact on the regulatory objectives.

Addition of 2.1 and 3.1: definition of Client Account and Client Money

53. This amendment improves understanding of the application of provisions in the Accounts Code and overall usability and therefore has a positive effect on the Regulatory Objectives of 'Independent, strong, diverse, effective profession' and 'Increase public understanding of citizens' legal rights and duties'.
54. It is neutral with respect to the other Regulatory Objectives.

Changes that simplify the Accounts Code and remove duplication

55. Overall, the proposed amendments will have a positive impact on the protection and promotion of the public interest. The revised Code removes unnecessary detail and emphasises the most important aspects of the proper management of client money, while ensuring adequate client protection. This in turn makes it easier to comply with the Code and increases public trust and confidence. Simpler rules are also easier for consumers to understand.
56. A simplified Code also improves access to justice and protects and promotes the interests of consumers. The revised code makes it easier for consumers to be informed of and understand their rights, reducing any power imbalance and/or information asymmetry that may exist in the client-lawyer relationship.

57. Simplified rules promote competition by minimising regulatory burdens, allowing practices to reallocate resources to the quality and competitiveness of their services. Increasing flexibility and competition also benefits consumers.
58. Clarifying the Code and reducing opportunities for lawyers to be in technical breach of the Code where there is no risk to Client Money aligns with the objective of encouraging an effective legal profession. Less prescriptive rules can lead to lower costs and higher efficiency savings.
59. A simplified Code increases public understanding of the citizen's legal rights and duties. Increased understanding is likely to reduce complaints levels, and increase confidence in the profession as a whole.
60. Less prescriptive rules mean that practices will need to properly assess the needs of their clients and how they ensure compliance rather than relying on detailed rules which may become a tick-box exercise.
61. Clarifying who is responsible for ensuring compliance with the Code (new rules 1.2, 1.3; current rules 9.1.1 and 9.1.4): this clarification that responsibility for compliance lies with managers has a positive impact on the promotion and support of the public interest and the interests of consumers because it means that there are clearer lines of accountability and an increased likelihood that the rules are upheld. The new rules also have a positive effect on promoting an effective profession as they remove ambiguity. It is neutral with respect to the other objectives.
62. Removing references to and duplication of provisions from the Code of Conduct (paras 1-5 and 7 of the current Code) reduces the potential for confusion about the scope of managers' responsibilities and reduces the length of the code. This has a positive impact on the promotion of the public interest, consumer interests, and an effective legal profession for the same reasons listed in paragraph 61. The change is neutral with regard to the other objectives.
63. Removing overly prescriptive requirements on the frequency for updating Accounting Records provides greater flexibility for practices in their management of accounting records (new rules 6.1-6.9). The new rules reduce administrative and regulatory burdens, promoting an effective profession, while still providing an adequate level of consumer protection. The change is neutral with regard to the other regulatory objectives.
64. Requiring all Accounting Records to be kept for a minimum of 6 years removes an unnecessary distinction from the Code making it easier to comply with. This in turn has a positive impact on the promotion of an effective legal profession. There is a small possibility of a negative impact on the same objective due to an increased administrative burden (related to record keeping responsibilities) but we believe this is outweighed by the positive impacts. This change is neutral with regard to the other objectives.
65. Replacing 12.8, 12.8.1, 12.8.2 and 12.8.3 with new rule 4.2 allows each practice to determine the process appropriate for its business for the authorisation of payments out of Client Accounts. This has a positive impact on the promotion of an effective profession by removing unnecessary detail and making the rules easier to comply with, while still providing adequate levels of client protection. This change is neutral with regard to the other objectives.

66. The removal of outdated paragraphs 10.3 and 10.4 relating to Designated Accounts shortens the Code and makes it easier to comply with, promoting an effective profession. The impact on the other objectives is neutral.
67. The removal of paragraph 11 means the reduction of a significant AML risk. This has a positive impact on upholding the rule of law, as well as promoting the public's and consumers' interests. It is neutral with regard to the other objectives.
68. The omission of paragraphs 12.1-12.7; 12.9-12.11 make the Code easier to apply and understand. This has a positive effect on the promotion of an effective profession, and a neutral effect on the other objectives.
69. Paragraph 13 was removed as it was overly prescriptive, and the same protections are ensured by proposed new paragraphs 5.2 and 5.3. The effect is to provide more flexibility and make the Code easier to understand and apply, while still protecting clients. This promotes an effective profession and is neutral with regard to the other objectives.

Who is able to sign-off on an Accountant's Report

70. The proposed revisions to rule 16.7 (new rule 6.7) have a positive impact on the promotion and protection of the public interest by clarifying who may be prohibited from signing off on an Accountant's Report. This also has a positive impact on the protection and promotion of consumers' interests and encouraging an independent profession. The amendment promotes and maintains adherence to professional principles by clarifying the circumstances in which an accountant can be disqualified. The amendment is neutral with regards to the other principles.

Self-certification of Aged Balances up to £50

71. The proposed revision to the Aged Balances rules benefits the objective of encouraging an effective legal profession by reducing regulatory and administrative burdens. It is neutral with regard to the other objectives.

Third Party Managed Accounts

72. The use of TPMA's can promote and protect the public interest by increasing the level of control a client has over the movement of money, as they will have to agree to the terms on which the money is held by a third party.
73. The introduction of explicit rules and guidance relating to arrangements with TPMA providers benefits the protection and promotion of the interests of consumers by specifying minimum standards of consumer protection.
74. The TPMA rules have the potential to encourage competition in the provision of legal services by providing consumers with a wider range of choices.
75. Reduced regulatory and administrative burdens have the potential to encourage a stronger and more effective legal profession by increasing efficiency savings.
76. Firms that elect to use a TPMA will be required to ensure that clients are informed of and understand the risks and protections that apply, increasing understanding of legal rights and duties.

F. Statement in respect of the better regulation principles

77. The CLC believes that the new Accounts Code fulfils our obligation under section 28 of the Legal Services Act 2007 (LSA) to have regard to the Better Regulation Principles.
78. The changes to our Regulatory Arrangements are targeted and align with the better regulation principles of transparency, accountability, and proportionality.
79. We believe that our changes are proportionate and appropriate, evidenced by responses to our consultation and for reasons given under C above. Refer also to the summary of consultation responses at Annex F.
80. The changes do not require practices to use TPMAs, and do not introduce any new regulatory or administrative burden (beyond having to keep some records for 6 years instead of 2).
81. The updated rules will consistently apply to all CLC Practices and we believe that the changes proposed are in line with those of other legal service regulators.
82. We have acted transparently and engaged with a range stakeholders in developing our proposals.

G. Desired outcome

83. The proposed changes will reduce the regulatory and administrative burden on the profession when managing client money, while keeping in place strict consumer protections.
84. The simplified revised Code is easier to read, understand and apply, leading to efficiency cost savings for practices and Reporting Accountants.
85. Explicitly allowing the use of TPMAs will increase competition in the sector, and guidance will allow the profession and the public to proceed in their transactions with confidence.
86. We will review the impact of our changes on an ongoing basis and will monitor impacts for any unintended consequences and consider if any action needs to be taken.
87. The effectiveness of the proposed new guidance on Aged Balances and TPMAs will also be monitored and updated in line with any perceived issues / issues and queries raised by practices and accountants. We will review the rules and guidance relating to Aged Balances and TPMAs within two years.

H. Stakeholder engagement and consultation

88. The CLC consulted with a broad range of stakeholders, including CLC-regulated practices of varying size, the Legal Services Consumer Panel, the Society of Licensed Conveyancers, accountants, and providers of TPMAs.
89. An initial consultation started in February 2017 and ran for 12 weeks, receiving 14 responses. This initial consultation and responses to it informed the development of the current consultation and proposals.
90. Throughout March 2019 the CLC held workshops in Bristol, Birmingham, Manchester and London. A total of 42 practices attended and contributed to discussions that informed the development of the current proposals.
91. The consultation period on the proposed amendments in this application ran between 17 April and 21 June 2019 and received 10 responses. A summary of the responses and our consequent decision-making is attached at Annex F.

92. As agreed by Council in January 2020, the second consultation paper on the TPMA guidance and revised Aged Balances guidance was published on the CLC website and notified to relevant stakeholders through the newsletter and social media on 13 February 2020. The consultation period closed on 25 March 2020 (6 weeks) and received no responses. The period was shorter than the CLC's usual three month consultation for changes to regulatory arrangements given it was a supplementary consultation on the guidance only. The Aged Balances Guidance and TPMA Guidance are at Annexes C and D for information.
93. It should be noted that following the closing of the consultation in June 2019, the Chartered Institute of Management Accountants (CIMA) asked to be added to the list of Accountancy Bodies in paragraph 16.6 of the (current) Accounts Code. Although specifically invited to do so during the consultation in 2020, CIMA did not respond and has made no further representations. In the absence of a reasoned representation, no amendment is proposed to paragraph 16.6 (paragraph 6.6 of the proposed Accounts Code).
94. All consultations and workshops were published on the CLC website, promoted on social media channels, and targeted to stakeholders through the CLC's weekly newsletters. The CLC has notified its review of the Code to industry and regulators at conferences, events, and fora.

I. Statement in relation to impact on other Approved Regulators

95. We do not believe our proposals give rise to any conflict between any of the approved regulators. Other regulators have been informed of our proposals as they have been developing and have had opportunity to feedback. No Approved Regulator has raised any objection to any of the current proposals.
96. The CLC has followed closely the Solicitors Regulation Authority's (SRA) review of its Accounts Rules and Guidance, particularly in relation to TPMAs. The CLC has also reviewed the rules and guidance of other regulators to ensure a consistent approach.
97. The CLC's proposed new self-certification scheme for Aged Balances is more conservative than the approach taken by the SRA (lower limits for self-certifiable balances) and does not conflict with or impact on other regulators.

J. Implementation timetable

98. Our guidance will help practices to comply with the new requirements. Our intention is to provide support to practices in understanding and meeting the new requirements and suggesting best practice.

Publication of draft rules and guidance on CLC website pending approval by the LSB	May 2020
Changes to the CLC's regulatory arrangements approved by the LSB	June/July 2020
CLC rules come into effect	30 September 2020

K. CLC contact for matters relating to this application

99. If you have any queries in relation to this application, please contact:

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L. Accessibility

100. This application has been accessibility checked and drafted in a way that those with limited understanding of the current regulatory framework should be able to understand it.

ANNEX A

Destination table comparing current and proposed Accounts Code provisions

Current Provision		In draft code	Removed	Comment	<i>Destination in proposed Code</i>
1.	Act with independence and integrity		x	OP1 CLC Code of Conduct	
2.	Maintain high standards of work		x	OP2.1 CLC Code of Conduct	
3.	Act in the best interests of your Clients		x	OP3 CLC Code of Conduct	
4.	You keep Client Money Safe		x	OP1(h) CLC Code of Conduct	
5.	You promote ethical practice and compliance with regulatory requirements		x	OP2(g) CLC Code of Conduct	
6.	You maintain proper governance, management, supervision, financial and risk management arrangements and controls	x			1.3
7.	Keep Client Money separate from your money		x	OP1.3 CLC Code of Conduct	
8.	Comply with AML & CTF legislation	x			1.6
9.					
9.1.1.	Ensure compliance	x			1.2
9.1.2.	Use Client money only for Client matters		x		
9.1.3.	Money paid only related to service regulated by the CLC	x			2.3
9.1.4.	Maintain proper accounting systems			Part of rules 9.1.4 and 6 combined	1.3
9.1.5.	No debit on client side of client ledger	x			3.5
9.1.6.	Remedy breach without delay	x			3.4
9.1.7.	Account to Client asap after completion of transaction		x		
10. Payment into Client Account					
10.1.	Pay Client money to Client Account without delay	x			3.2
10.2.	Money in Client Account available immediately	x			3.3
10.3.	Money in Designated Account not aggregated with other monies		x		
10.4.	Only client Money in Client Account except		x		
10.4.1.	Money necessary to open/maintain client account		x		
10.4.2.	Money to replace sum withdrawn in breach of Code		x		
10.4.3.	When in doubt whether money is wholly Office Money	x			3.8
11. Money to be withheld from Client Account					

11.1.	Do not pay money into Client Account		x		
11.1.1.	Which Client instructs you to withhold		x		
11.1.2.	Withheld with written authorisation of CLC		x		
12. Withdrawal and Transfer from Client Account					
12.1.1.	Money incorrectly paid into it	x			3.8
12.1.2.	As soon as possible		x		
12.1.3.	Without delay Office Money no longer necessary to maintain Client Account		x		
12.1.4.	Within 28 days of invoice money held on account of costs and disbursements	x			4.1b
12.2.1	Only withdraw from Client Account money required to pay to Client	x			4.1a
12.2.2	Required to pay a Disbursement		x		
12.2.3	Pay money already paid out of Office Account	x			4.1c
12.2.4	Reimbursement of money for which you have incurred a liability		x		
12.2.5	Transferred to another Client Account	x			4.1e
12.2.6	When CLC has given authority		x		
12.3	Withdrawals from Client Account are specific sums		x		
12.4	Money withdrawn does not exceed total of money held both to Client and Client Account in which money held	x			3.5
12.5	Replace without delay shortfall to Client or Client or Client Account	x			3.4
12.6	Undrawn costs must not remain in Client Account		x		
12.7	Any withdrawal in your favour record in client and office columns of client ledger account		x		
12.8.1	A withdrawal from Client Accounts is made by cheque	x			4.2a
12.8.2	By CHAPS or electronic system	x			4.2b
12.8.3	Payments authorised electronically only by Approved Person	x			4.2b
12.9	Authority not required for transfer between Client Accounts		x		
12.10	Transfer between Client Accounts only made if otherwise permissible under Code		x		
12.11	Withdrawal from Client Account in your favour only made by cheque or transfer to Office Account		x		
12.12	Withdrawals in cash not permitted		x		
12.13	Except with authority of both Clients private loan from one Client to another is not paid out of funds held for lender		x		
12.14	All monies in Client Account paid to Rightful Recipient as soon as no reason to retain them	x			4.3
13. Accounting Records					
13.1.	Update Accounting Records at least once a week to show dealings with	x			5.1
13.1.1.	Client Money	x			5.4a
13.1.2.	Office Money	x			5.4a

13.2.	Accounting Records are sufficient to	x			5.4a
13.2.1.	Show and explain accurately every transaction	x			5.4b
13.2.2.	Disclose total indebtedness to each Client and Client's total indebtedness to you	x			5.4b
13.3.	All dealings with Client Money are appropriately recorded		x		
13.3.1.	In a client cash account	x			5.6
13.3.2.	On client side of separate client ledger account for each Client		x		5.4d
13.3.3.	With sufficient explanation for each entry		x		5.4a
13.4.	If Separate Designated Account used		x		
13.4.1.	Combined cash account must be kept		x		
13.4.2.	Record kept on Client ledger		x		
13.4.3.	Appropriately record credit of interest		x		
13.5.	Current balance shown	x			5.4d
13.6.	All dealings with Office money appropriately recorded	x			5.4a
13.7.	Can use same Client ledger for lender and borrower on mortgage transaction		x		
13.8.	Retain on central record or file copies of invoices	x			5.4e
13.9.	Reconciliations at least once a month	x		x	5.6-5.7
13.9.1.	Prepare bank reconciliations	x			5.6
13.9.2.	List balances	x			5.6
13.9.3.	prepare reconciliation statement	x			5.6
13.10.	Steps required under 13.9		x		
13.10.1.	Prepared to a date not more than 5 weeks after last one		x		
13.10.2.	Complete within 7 days of the date to which they are prepared	x			5.5
13.11.	Records kept separate		x		
13.12.	You have immediate access to accounting Records	x			5.8
13.13.	Retention of Records – for at least 6 years	x			5.9
13.14.	Retain for 2 years all paid cheques and authorities for withdrawal	x			5.9
13.15.	All bank statements kept for 6 years	x			5.9
13.16.	Misappropriation of Clients' Money notify CLC without delay	x			3.9
14. CLC Monitoring					
14.1.	You produce to CLC all information including Accounting Records	x			1.4
14.2.	Accounting Records held on a Durable Medium	x			1.4
14.3.	CLC entitled to seek verification from bank and you will give appropriate authority	x			1.5
14.4.	If CLC not allowed to take originals you provide copies		x		
15. Deposit interest					
15.1.	When holding Client Money account to the Client for interest	x			3.10
15.2.	Pay to Client interest as directed by the CLC		x		

15.3.	Provide sufficient information to enable Client to give informed consent to waiving interest	x			3.10
16. Accountants Report					
16.1.	Provide Accountant's Report to CLC if you have held Client Money during Accounting Period	x			6.1
16.2.	Accountant's Report delivered to CLC within 6 months of end of Accounting Period	x			6.2
16.3.	Separate Accountants Reports if you have two or more office and have different Accounting Periods for them		x		
16.4.	Notify CLC immediately of changes in Reporting Accountant	x			6.3
16.5.	Reporting Accountant must be member of recognised accountancy body and hold current practising certificate			Rule 16.5 and 16.6 combined	6.6
16.6.	Requirements to be qualified to certify Accountants Reports accountancy bodies			Rule 16.5 and 16.6 combined	6.6
16.7.	Accountant's Report can not be certified by accountant with conflict of interest or disqualified by CLC	x			6.7
16.8.	Have prescribed terms of engagement with Reporting Accountant	x			6.8
16.9.	Reporting Accountant examines Accounting Records at your office	x			6.4
16.10.	You provide Report Accountant with all Accounting Records	x			6.4
16.11.	Reporting Accountant examines Accounting Records and carried out prescribed checks and tests		x		
16.12.	Reporting Accountant signs and delivers Accountant's Report to CLC	x			6.8b
17. General Saving Provisions					
17.1.	Entitlement on grounds of Client privilege to refuse to produce document to Reporting Accountant but Report must be qualified		x		
18. Reporting Accountant's Terms of Engagement – Schedule 1					
18.1.	Terms on which Reporting Accountant instructed				
18.2.	In accordance with CC Accounts Code Reporting Accountant instructed				
18.2.1.	To conduct checks and tests prescribed by CLC	x			6.8a
18.2.2.	Sign and deliver Accountant's Report	x			6.8b
18.2.3.	Report to CLC evidence of theft or fraud	x			6.8c
18.2.4.	Report to CLC if appointment terminated	x			6.8d
18.2.5.	Retain terms of engagement for 2 years	x			6.8e
18.2.6.	Provide further information to CLC if requested	x			6.8f
18.3.	By accepting instructions the Reporting Accountant agrees	x			
18.3.1.	The CLC will rely on the Report	x			6.9a
18.3.2.	Duty of care is owed to CLC	x			6.9b

18.3.3.	Liability to CLC limited to loss and cost suffered by CLC which is fault of Reporting Accountant	x			6.9c
18.4.	CLC Practice waive its entitlement to confidentiality	x			6.9d

New Provisions

2.1	Definition of Client Account
3.1	Definition of Client Money.
4.4	The criteria that must be met to enable the withdrawal of an aged balance (not exceeding £50) from client account.
4.5	Any individual client balance in excess of £50 will still need to be authorised by and paid to the CLC.
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.
7.1	A practice approved by the CLC may enter arrangements to use a named TPMA provider
7.2	Any application to use a named TPMA provider must include information required by the CLC
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 and understands contractual arrangements, right to terminate and dispute payment requests

ANNEX B
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.

ANNEX C

AGED BALANCES GUIDANCE

Purpose of this Guidance

This guidance aims to help the regulated community resolve the problem of Aged Balances.

Note that the self-certification scheme introduced in September 2020 means that firms do not need CLC authorisation to withdraw aged balances less than £50.

Part 1 provides guidance on avoiding or minimising the occurrence Aged Balances, and

Part 2 sets out the procedure which the CLC will follow, and the information you need to provide, when it considers whether to give written authority for the withdrawal of an aged balance of £50 or more.

Part 1: Avoiding Aged Balances

A. On Receipt of Instructions

1. Obtain the Client's bank account details (name and address of bank, sort code, account number and name), or the Client's credit card details.

B. Completion Statements

2. The CLC Practice should keep accurate and up to date completion statements:
 - (a) a completion statement is an itemised statement of money paid in and out of the Client Account, concluding with a balance either owed by or to be paid to the Rightful Recipient
 - (b) draft completion statements should be prepared and checked prior to exchange of contracts
 - (c) all completion statements (in draft or final form) should be checked for accuracy by reference:
 - i. to the transaction file, and
 - ii. to the Client ledger, with evidence from the Rightful Recipient on a Durable Medium.

C. Client Ledger Cards

3. The Client ledger card should be checked to ascertain whether a balance remains after the last payment is made and, if so, the balance should be accounted for immediately to the Rightful Recipient.
4. It is good practice to ensure that:
 - (a) the Client ledger balances are reviewed monthly to identify unexpected or dormant Client balances
 - (b) if a balance is held against a contingent liability, a note is made on the Client ledger card (or alternatively the file) clearly identifying that liability, and
 - (c) a schedule of Client balances held for 3 months or more is maintained stating in each case the client(s) name(s), file/ledger number, the Rightful Recipient, the balance outstanding, the date of last movement and the reason for the balance.
5. Before a file is closed or archived:
 - (a) the Client ledger card should be checked to ensure:
 - i. no balance is outstanding, and
 - ii. all cheque payments have been cleared by the bank

- (b) a copy of the Client ledger card showing a nil balance on both the Client and Office Accounts should be placed on the file.

D. Unpresented Cheques

- 6. Unpresented cheques should be reviewed on a regular basis.
 - (a) Unpresented mortgage redemption cheques: the Rightful Recipient should be contacted within 12 days and no later than one month after payment has been tendered and then at frequent intervals,
 - (b) All other cheques: the Rightful Recipient should be contacted after no more than two months after the cheque has been tendered and then at a minimum of two monthly intervals.
- 7. If a cheque has been lost or remains unpresented after six months:
 - (a) a stop should be placed on the original cheque
 - (b) the cheque should be written back to the client ledger account, and
 - (c) the monies should be paid:
 - i. either direct to the Rightful Recipient's bank account, or alternatively credit card account, or
 - ii. at the Rightful Recipient's direction.

E. Retention Monies

- 8. Where possible the CLC Practice should seek agreement providing for retention monies to be held on terms that provide for payment to a named person at a specified Bank account if the terms for their release have not been satisfied within a specified period.
- 9. If no such term has been agreed:
 - (a) the file should be reviewed every three months, and
 - (b) you should seek to obtain such an agreement.
- 10. It is good practice to maintain:
 - (a) a schedule of retention balances stating in each case the Client(s) name(s), the file/ledger number, the amount of and the reason for the retention and the last date for release, and
 - (b) a separate note of the reason for the retention and the last date for release on the client ledger card.

F. Aborted or Delayed Transactions

- 11. Regular contact should be maintained with the client where the matter has either aborted or been delayed.

Part 2 – Withdrawal of Aged Balances

A. Aged Balances not exceeding £50

- 12. The CLC does not need to authorise the withdrawal of an Aged Balance not exceeding £50 provided that the conditions in paragraph 4.4 of the Account Code are met.
- 13. For all withdrawals ensure the relevant entries have been made to a suitable office nominal ledger account e.g. "Write-Offs".

B. Aged Balances exceeding £50

14. The withdrawal of an Aged Balance exceeding £50 to the Office Account must be authorised by the CLC and paid to the CLC (paragraph 4.7 of the Accounts Code).
15. An application for authorisation must be signed and dated and must include:
 - (a) A schedule setting out the:
 - i. Client(s) name(s)
 - ii. file/ledger reference
 - iii. address of the property concerned
 - iv. name of the Rightful Recipient(s)
 - v. balance outstanding, and
 - vi. date of last movement on Client Account
 - (b) A copy of the Client ledger card(s)
 - (c) A description of how the balance came about, and
 - (d) A statement confirming that reasonable steps have been taken to locate the Rightful Recipient, describing what the reasonable steps were and that they were unsuccessful.

What are reasonable steps?

16. What amounts to reasonable steps will depend on the particular circumstances and the sum involved. Examples are:
 - attempting to contact the Rightful Recipient at all known addresses, by all known telephone numbers and at any known e-mail address, or through Estate Agents
 - attempting to return funds using available bank or credit card details of the Rightful Recipient
 - contacting known contacts of the Rightful Recipient
 - advertising in a local newspaper.
17. Where the Rightful Recipient cannot be identified, the CLC will, in exceptional circumstances, give authority for the withdrawal of funds from Client Account on the basis that a funds transfer for any sum so authorised must be drawn on the Client Account payable to the CLC. On receipt, the funds will be placed to the credit of the CLC's Compensation Fund. You should place a copy of the authority issued by the CLC on the Client's file.
18. If the Rightful Recipient makes contact after funds have been paid into the CLC's Compensation Fund the CLC Practice should contact the CLC with a view to the Rightful Recipient making a claim for reimbursement on the Compensation Fund unless the body is no longer trading in which case they should contact the CLC directly.

ANNEX D
THIRD PARTY MANAGED ACCOUNTS GUIDANCE

Third Party Managed Accounts Guidance

1. A CLC Practice which has had CLC approval may use a Third Party Managed Account (TPMA) managed by a named TPMA provider as an alternative to a Client Account.

Your responsibilities before entering into arrangements with a TPMA provider

2. The CLC Practice must ensure that the TPMA is authorised and regulated by the Financial Conduct Authority (FCA) in accordance with the Payment Services Regulations 2017. This means it must be:
 - a. an authorised payment institution, or
 - b. a small payment institution that has adopted voluntary safeguarding arrangements to the same level as an authorised payment institution, or
 - c. an EEA authorised payment institution.
3. The CLC Practice must ensure that the TPMA is an account held at a third party bank or building society operated as an escrow payment service, and that the money in the account is owned beneficially by the third party. The use of the TPMA must not result in you receiving or holding Client Money.
4. The CLC Practice should undertake an assessment of the viability of the business of the TPMA and satisfy itself that there is minimum risk to Client Money and that the Client will be protected in the event that the TPMA closes.

The CLC must approve the use of the TPMA provider

5. If it would like to use a TPMA the CLC Practice should email the CLC at [address@clc-uk.org] with:
 - a. the Practice name and licence number
 - b. the name of the TPMA provider and its FCA authorisation number
 - c. the date on which it intends to start using the TPMA, and

The CLC may request further information.

6. Once approval is granted the CLC Practice does not need further approval where the same TPMA provider is used for another matter or Client. Further approval is required to use another TPMA provider.
7. The CLC Practice must inform the CLC in writing within 14 days after ceasing to use a TPMA provider.

Status of money held in a TPMA

8. Money held in a TPMA is not Client Money as it is not held or received by a CLC Practice and is not subject to the Accounts Code.
9. Using a TPMA does not release the CLC Practice from the requirement to act in the best interests of its Clients, which includes protecting Client Money and assets (Overriding Principle 3, Code of Conduct). The CLC Practice must ensure that the decision to use a TPMA, and the TPMA provider used, is appropriate in the circumstances of each case.

Client protection and information arrangements

10. The use of a TPMA must not result in a greater risk to a Client's money.
11. Before entering an arrangement with a TPMA provider, a CLC practice must take reasonable steps to ensure that the Client understands:
 - a. the terms and contractual arrangements relating to the use of the TPMA
 - b. their right to terminate the agreement
 - c. their right to dispute payment requests made by the CLC Practice
 - d. who will be responsible for costs associated with the arrangement
 - e. that the TPMA is regulated by the FCA and complaints about the TPMA provider should be made to that provider in accordance with their complaints process, and
 - f. that the regulatory protections applying to TPMAs are different to those applying to Client Money held in a Client Account.
12. The CLC Practice must obtain regular statements from the TPMA provider and ensure that these accurately reflect all transactions on the account.
13. The CLC Practice must retain statements from the TPMA provider for no less than 6 years and provide the CLC with copies on request.
14. The CLC Practice must ensure that the TPMA provider has appropriate insurance in place, the terms and conditions of which are not materially prejudicial to Clients.

ANNEX E

DEFINITION OF THIRD PARTY MANAGED ACCOUNT (TPMA)

The definition will be included in the [CLC Glossary of Legal Terms](#).

Third Party Managed Account (TPMA)

means an account

- (a) held at a bank or building society in the name of a third party which is
 - i. an authorised payment institution,
 - ii. a small payment institution that has chosen to implement safeguarding arrangement in accordance with the Payment Services Regulations, or
 - iii. an EEA authorised payment institution(as each is defined in the Payment Services Regulations) regulated by the Financial Conduct Authority,
- (b) in which monies are owned beneficially by the third party, and
- (c) which is operated upon terms agreed between the third party, the CLC Practice and the Client as an escrow payment service.

ANNEX F
REVIEW OF THE CLC ACCOUNTS CODE & GUIDANCE
Summary of Consultation Responses

2019

Executive summary

Between 17 April and 21 June 2019 the CLC consulted publicly on proposed changes to the Accounts Code (the Code), which governs the handling of Client money by CLC-regulated practices. The consultation received ten responses from CLC practices, the Legal Services Consumer Panel, the Society of Licensed Conveyancers, an accountancy practice, and two third party managed account (TPMA) providers. The purpose of this paper is to summarise responses to the questions in the consultation paper.

The proposals consulted on include:

1. Simplifying the Code to reduce regulatory burdens, make it easier to understand, and to ensure it is appropriate and proportionate.
2. Amending the format of the Accountant's Report to allow more flexibility for Reporting Accountants to determine the appropriate tests for a given practice.
3. Reducing the time for submitting the Accountant's Report to the CLC from six to three months.
4. If the time limit is not reduced, requiring an interim report highlighting the areas of concern of a qualified report; and/or requiring that the CLC is immediately informed of any breach that results in client monies not being kept safe.
5. Introducing a self-certification scheme for aged balances of up to £50.
6. Allowing practices to donate aged balances of up to £10 to a nominated charity.
7. Explicitly allowing the use of TPMAs.

Background

The proposals in the current consultation were developed following:

- the CLC's previous public consultation regarding changes to the Code starting in February 2017 and running for 12 weeks, which received 14 responses; and
- four workshops attended by 42 CLC practices in March 2019.

Question 1: Do you agree that the proposed Accounts Code is clearer and easier to understand?

7 respondents agreed that the simplified version of the Code is clearer and easier to understand. The remaining 3 respondents (an accountancy practice and the TPMA providers) did not answer the question.

A conveyancing practice requested clarification of new rule 4.2, which replaces 12.8, 12.8.1, 12.8.2 and 12.8.3 and relates to who is able to approve payments from a Client Account. As a result, new rule 4.2 was reworded to specify that "Payments out of a Client Account must be approved *by a duly authorised signatory to the Client Account...*"¹

¹ The former proposed wording of new rule 4.2 stated that "Payments out of a Client Account must be duly authorised by the signatories to the Client Account..."

They also noted that the omission of the words 'Office in Credit' in new rule 3.5 (formerly 9.1.5) might result in Client Money being in the Office Account in error and the breach not being detected.

The same practice expressed some concern that less prescriptive rules may lead to those who are new to legal cashing setting inadequate or inappropriate procedures, systems, and controls.

CLC does not consider less prescriptive rules to be an issue given that the guidance will be updated accordingly.

Question 2: Do you agree with the proposed revisions to the format of the Accountant's Report? In particular, do you think that it appropriately covers the principal areas of risk to client monies?

8 of 10 respondents approved of the revised form of the Accountant's Report and agreed it covers the principal areas of risk to client monies. The TPMA providers did not answer.

Question 3: Do you agree with the proposal to reduce the time limit for delivering the Accountant's Report to the CLC from six to three months from the end of the Accounting Period?

Six respondents disagreed with the proposal to reduce the time limit, two agreed that it should be reduced (a conveyancing practice and the Legal Services Consumer Panel), and two did not respond (TPMA providers).

Two CLC practices noted that accountants may charge higher or additional fees for an expedited process, or because they need to reschedule annual audits. One of the practices qualified its response by adding that this may be tempered by introducing the proposals in question 4 a) and b).

Another practice thought a reduced timeframe may make it more difficult to engage an accountant to do the work, while the Society for Licensed Conveyancers submitted that while a shorter timeframe may be achievable for smaller firms, it would cause issues for larger ones where reports take longer to prepare.

The accountancy practice responded that a reduced time limit would be "practically impossible" as obtaining confirmation of balances and copies of cheques from the bank can take up to three months in itself. They submitted that the time limit should be extended to nine months, in line with the Companies House reporting deadline.

In response to consultation feedback the CLC has removed the proposal to reduce the reporting period.

Question 4: If the time limit remains at six months, do you agree that the Reporting Accountant should:

- a) Submit an interim report highlighting the areas of concern of a qualified report; and/or**
- b) Be required immediately to inform the CLC if they discover a breach of the Code that results in client monies not being kept safe?**

Three respondents (two practices and the Legal Services Consumer Panel) agreed that both a) and b) would be positive measures, although one of the practices noted that it may be practically difficult to achieve until the audit is concluded (except in cases of serious material breaches that are readily self-evident).

A further three respondents (two practices and the accountancy practice) did not agree with either of the proposals.

The Society for Licensed Conveyancers and the remaining practice did not explicitly object to a) but agreed that b) would be a more effective way of protecting client monies.

The TPMA providers did not respond.

Question 5: Do you agree with the proposal to permit CLC Practices to withdraw money to the limit of £50 from a client account and pay into the office account without CLC authorisation in circumstances where they cannot locate their client?

8 of 10 respondents agreed with this proposal. One TPMA provider and the accountancy practice did not answer this question.

One practice added that £50 is a more reasonable amount that is commensurate with the cost of stopping and re-issuing cheques, or the cost of postage or phone calls made in trying to locate a client.

A TPMA provider agreed with the proposal and requested guidance be provided as to how a TPMA should deal with Aged Balances. They noted that a TPMA will always be able to identify the source of funds, and if the account no longer accepts deposits the TPMA would donate the money to a charity of its choice.

As money held in a TPMA is not subject to the Accounts Code it would be subject to the rules of the TPMA provider. As such the CLC will not provide guidance on Aged Balances held in a TPMA.

Question 6: Do you agree with the proposal to permit CLC Practices to donate money to the limit of £10 from a client account to a nominated charity without prior CLC authorisation in circumstances where they cannot locate their client?

One TPMA provider and accountancy practice did not answer this question.

Three practices and the Legal Services Consumer Panel agreed with the proposal, with one practice noting that several of its clients would not bother cashing a cheque for less than £10.

The Society of Licensed Conveyancers agreed with a provision for donating aged balances to charity but suggested the limit should be raised to £50. Another practice noted that it is not clear why the charity limit is not also £50, given that the CLC practice would remain liable to pay the Rightful Recipient upon request.

In response to feedback the CLC has raised the charity limit to £50. The CLC has also altered the wording of the provision to clarify that a practice may pay an Aged Balance to a charity, the Office Account, or to the CLC.

Question 7: Do you agree with our approach to allowing TPMA's as an alternative to holding money in a client account?

The accountancy practice did not answer this question.

The remainder of the respondents (9) responded in the positive, although 8 of them qualified their answers with the following:

- It is not clear how the CLC would enforce a requirement that TPMA's must provide statements when requested by a CLC Practice.
- It is not clear why the CLC Practice would need to see the transactions on the TPMA account if they have no regulatory responsibility for those client funds.
- The use of TPMA's must not result in greater risk to client monies.
- TPMA's should hold appropriate indemnity insurance and their terms and conditions must not be materially prejudicial to consumers.

- There must be sufficient consumer safeguards in place, a lack of which could present a risk to the CLC's reputation and potential negligence action against entities for recommending unsafe products.
- The CLC should work to authorise the use of TPMAs now so that its regulated firms are not left behind.
- That TPMAs should have mandatory criteria attached, including relating to: independence; transparency; dispute resolution mechanisms; provisions for termination of arrangements; and appropriate regulatory oversight by the FCA.
- The CLC should approve authorised TPMA providers for use by the profession following extensive trials.

One TPMA provider noted the benefits of TPMAs as being reduced risk in handling client money, and significant streamlining of the administrative burden associated with identifying the source of client money.

As a result of feedback the requirements to obtain regular statements and to retain statements have been removed from the Code. Guidance will be provided on these points if deemed necessary.

Additional matters addressed following the consultation resulted in the following amendments to the Accounts Code:

- (i) Entitlement to payment invoices out of Client Account – paragraph 4.1(b)

The expectation is that Clients are invoiced only for work which has been completed. The general practice is for invoices for conveyancing services to be submitted and paid at the point of completion, although further work, such as submission of SDLT certificates and registration of the transfer, is invariably required.

The position is similar for probate services in that a large proportion of the work required has been completed by the time the grant of representation is issued. It is therefore reasonable for the CLC practice to submit an invoice and be paid for all services to be provided under the agreement with the Client, even though some further work remains to be completed after the invoice has been submitted. If further substantive work is required because a complex and unexpected issue has arisen, an interim invoice may be submitted immediately after the grant of probate, and a final invoice submitted at the time the administration of the estate is concluded.

- (ii) Authority for payments out of the Client Account - paragraph 4.2

Paragraph 4.2 was amended to make it clear that payments out of Client Account can be made by one of the signatories to the Client Account. One interpretation of the provision as drafted was that all the signatories had to approve each payment out of the Client Account. The intent is that each CLC practice should determine the process appropriate for its business for approval by a duly authorised signatory of payments out of Client Account.

ANNEX G

Proposed form for Accountant's Report and Guidance

COMPLETION GUIDE

- This reporting template comes into effect for all reporting periods ending after [DATE].
- The accountants report is due within 3 months of the end of the reporting period.
- This report should be submitted to the CLC using any of the methods below:
 - Posting it to:
Council for Licensed Conveyancers
We Work
131 Finsbury Pavement
London
EC2A 1NT
 - Sending it to: DX 42615 CHEAPSIDE
 - Emailing it to: monitoring@clc-uk.org
- Please ensure that prior to completing the report that you have read the CLC's Accounts Code and the guidance accompanying this report.

SECTION ONE – PRACTICE DETAILS

Practice name:	<input type="text"/>	CLC number:	<input type="text"/>
Period ending:	<input type="text"/>	Months in period under review:	<input type="text"/>
Practice Name & Address:	<input type="text"/>		
Practice telephone:	<input type="text"/>		

SECTION TWO – REPORTING ACCOUNTANT DETAILS

Name of reporting accountant:	<input type="text"/>
Professional body registered with & Registration number	<input type="text"/>
Email address:	<input type="text"/>

SECTION 3 – ACCOUNTANTS DECLARATION AND REPORT

Accountants Declaration

1.1	I comply with paragraphs 7.7 and 7.8 of the Accounts Code	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1.2	I was engaged in accordance with paragraph 7.6 of the Accounts Code	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1.3	I have read the Accounts Code & Guidance and conducted my work in such a manner to enable me to form a view whether the CLC Practice has complied with the Accounts Code	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1.4	No personal or business relationship exists or has existed which has prevented me from carrying out my instructions fully and providing the Accountant's Declaration based solely on my inspection of the CLC Practice	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1.5	I conclude that the CLC Practice complies with the Accounts Code	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Accountants Report Findings			
2.1	Did the practice provide all records, bank statements and explanations requested?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.2	Are the systems and internal controls of the practice sufficient to prevent and detect breaches to the Accounts Code?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.3	Indicate whether your report is qualified or unqualified	<input type="checkbox"/> Unqualified	<input type="checkbox"/> Qualified
If you answered NO to any of the above questions and statements or are qualifying your report, please attach full details and explanations on separate company letter headed paper.			
3.1	Is there any other information that you consider should be brought to the CLC's attention – if YES, please attach on separate company letter headed paper details of these concerns, findings or information.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Name of Accountant completing this report:		<input type="text"/>	
Signature:		<input type="text"/>	
Date:		<input type="text"/>	

Guidance for accountants completing the new Accountant's Report

Introduction

The new accountants report is significantly less prescriptive than the previous version and aims to rely on the accountant's judgement to determine the plan and scope of the accountants review as well as conclude on the materiality of any breach.

Our intention is to move away from a prescriptive "check box" approach to a more outcome based approach. This gives the reporting accountant the flexibility and discretion to exercise their judgement by allowing them to:

1. Tailor the approach and the extent of the testing based on the practice's size, complexity and control environment.
2. Consider the impact of the control environment as it relates to client money.
3. Focus on risks relevant to the practice and its management of the client account.
4. Only qualify the report when there is material breach of the accounts code that puts client money at risk.

Accountant's responsibilities

The reporting accountant is engaged by the practice to review and report on:

1. The practice's compliance with the Accounts Code requirements, specifically:
 - a. Operation of the client account (Part 3 & 4)
 - b. The treatment of aged balances (Part 5)
 - c. Accounting provisions (Part 6)
 - d. Bank reconciliations (Part 6)
2. Whether there is an appropriate system of internal controls, management oversight and supervision that ensures compliance with the accounts code.
3. Whether breaches or failings in 1 & 2 above have or are likely to put client money at risk.

Qualification of report

Our aim with the revised format of the accountant's report is to allow the reporting accountant to determine based on the outcome of their review whether the report should be qualified. We would not expect the accountant to qualify the report based on trivial or accidental non-compliance with the Accounts Code where it is clear that it was an administrative issue that was quickly identified and rectified.

We expect the accountant to qualify his report based on the risk to the client:

- Whether a client has lost money because of negligence, fraud or control breakdowns, whether or not it has at a later stage been detected and refunded.
- Whether there is a high likelihood that a client could lose money because of controls and supervision breakdowns.
- Whether there have been material breaches of the Accounts Code rules that have been persistent or not immediately rectified on discovery.

Materiality

The overriding consideration in determining materiality, would be whether client money is being put at risk of loss through negligence, fraud or error. To assist in determining whether a breach is material the following table of circumstances has been developed:

	Almost always results in a qualification or should be reported to the CLC	A factor that on its own or combined with other factors may result in a qualification
A shortfall in the client account that is not attributed to an administrative or clerical error.	X	
A shortfall in the client account that is attributed to an administrative or clerical error that has been replaced or corrected in a timely manner.		X
Any shortfall in a client account that is either not replaced or not replaced in a timely manner.	X	
Breach of CLC Codes resulting in failure to adequately protect client money.	X	
Actual or suspected fraud or dishonesty by a Director, manager, employee or shareholder of the practice.	X	
Actions of a third parties that has or may put client money at risk.		X
Any material breaches of the CLC Accounts Code	X	
Accounting records and processes are inadequate to ensure compliance with the Accounts Code	X	
Accounting records are unreliable or inaccurate		X
Practice is unable or unwilling to provide documentation requested and necessary for the reporting accountant to conduct their review.	X	
Client bank reconciliations are not compiled in the manner and within the periods specified by the Accounts Code	X	
Client bank reconciliations, are not completed within specified timelines or are not of an appropriate standard		X
Reconciling items on bank reconciliations have been outstanding for more than 30 days		X
The control environment supporting the operation of the client account is inadequate		X
Aged balances are not being actively and appropriately avoided and managed		X
Regular or routine use of suspense accounts.		X

Test checks

Although the onus is on the reporting accountant to develop and conduct a plan to test the practices compliance with the Accounts Code, the checklist that formed the basis of the old accountant's report is a useful guide for the development of a review plan. The tests specified in the previous Accounts Code have been included as a guide for the development of a testing program.

1	Book-keeping system
1.1	The accounting records clearly distinguish between client and office monies dealt with by the practice.
1.2	A separate ledger account is maintained for each individual client and the particulars of all client money received, held or paid on account of each client, including funds held on separate designated deposits, or elsewhere, are recorded.
1.3	The current balance on each client and office ledger account is always shown or is readily ascertainable from the accounting records.
1.4	The current balance shown on each client and office ledger account is correct.
1.5	A central record or file of copies of all bills of costs has been retained on a durable medium.
1.6	The practice has established and maintained proper accounting systems, procedures, processes and internal controls to ensure compliance with the Accounts Code.
1.7	Where it is possible to ascertain, the Practice has accounted to their Clients' as soon as possible after completion of any transaction or after any retainers have been terminated.
1.8	Where it is possible to ascertain, all monies held in client bank account have been paid promptly to the Rightful Recipient when due.
2	Postings to ledger accounts and casts:
2.1	All dealings with client money have been appropriately recorded in a client cash book.
2.2	All dealings with client money have been appropriately recorded on the client side of a separate client ledger account for each Client or each Client matter.
2.3	Postings have been recorded in chronological sequence with the date being that of the initiation of the transaction.
3	Receipts and payments of client money:
3.1	Sample receipts and payments of client money as shown in bank and building society statements have been compared with the records of receipts and payments of client money and are correct.
3.2	The withdrawals from client bank account were made by payments other than in cash (i.e. CHAPS, BACS, Cheques etc.)
3.3	Sample paid cheques have been obtained and details agreed to payment records. (Where paid cheques are retained by the CLC Body's Bank, copies of the selected sample of paid cheques will need to be requested from the Bank).
3.4	A test examination of client ledger accounts revealed that no withdrawals on behalf of any client exceeded the total of the money held to the credit of that client.

3.5	If the test in 3.4 above revealed that withdrawals on behalf of a client exceeded the total of the money held to the credit of that client, such overpayments were corrected without delay.
3.6	Withdrawals from client bank account in respect of costs were properly required for or towards payment of the practice's costs where there has been delivered to the client a bill of costs or other written intimation of the amount of the costs.
3.7	Where money has been withdrawn from client bank account in respect of disbursements, the withdrawal related to the reimbursement of money:- <ul style="list-style-type: none"> a) already expended by the CLC Body out of office account and evidenced on a durable medium b) for which the CLC Body has incurred a liability to pay out of office account as evidenced on a durable medium.
4	System of recording costs and making transfers:
4.1	The payments or liabilities mentioned in test 3.7 above were debited to the client ledger before the monies were withdrawn from client bank account
4.2	Transfers between client and office bank accounts have been recorded in both the client and office columns of the appropriate client ledger accounts.
4.3	The system of recording costs has been ascertained and is suitable.
4.4	The withdrawals from client bank account have been made by way of a cheque or by way of a transfer to the office bank account.
5	Examination of documents for verification of transactions and entries in accounting records:
5.1	A test examination of several client files has been made.
5.2	All client files requested for examination were made available.
5.3	The financial transactions evidenced by documents in the client files were correctly recorded in the books of account in a manner complying with the Code.
6	Office accounts:
6.1	Check such client office ledgers, cash books and bank and building society statements as the CLC Practice maintains with a view to ascertaining whether any client money has not been paid into a client account.
6.2	Investigate client office ledger credit balances and ensure that such balances do not include client money incorrectly held in office account.
6.3	In the event of client office ledger credit balances existing on client ledger accounts, the practice has investigated them and corrected the position without delay.
7	Client money not held in client account:
7.1	Has the CLC Practice disclosed any dealings in which money has been withheld from client bank account?
7.2	Has an appropriate written client instruction/acknowledgement or written authorisation from the CLC been received in each instance?

8	Authorised Withdrawals from Client Bank Account(s):
8.1	Cheques or other written instructions for withdrawal from client bank account have been signed by an Approved Person.
8.2	Where CHAPS terminals or other electronic systems have been used to withdraw monies from client bank account the system has been operated by an Approved Person, or authorised electronically by an Approved Person.
9	Client to Client Transfers:
9.1	All transfers of money from the ledger account of one Client to that of another Client have been effected in accordance with the Accounts Code.
10	Client ledger for Borrower and Lender:
10.1	When acting for both lender and borrower in a mortgage transaction between them and separate client ledger accounts for both Clients have not been opened, the funds belonging to each Client are clearly identifiable.
11	Deposit Interest:
11.1	Where appropriate, the practice has accounted to clients for interest earned in accordance with the Accounts Code.
12	Information and Explanations:
12.1	All records and explanations required have been received and satisfactorily cleared.
13	Reconciliations and extraction of client ledger balances:
13.1	The client bank reconciliation, extraction of client and office ledger balances and comparison between liabilities to clients and cash available has been checked for a sample of reconciliations
13.2	All accounts, disclosed by the practice or the practice's Bank, containing client money have been included in the reconciliation.
13.3	The client bank reconciliation total is complete and correct having being calculated by:- <ul style="list-style-type: none"> the closing client bank account balance plus an accurate and complete list of outstanding lodgements less an accurate and complete list of unrepresented cheques.
13.4	The cash book balances at each of the dates selected have been reconciled to the balances in client account and elsewhere as confirmed directly by the relevant banks and building societies.
13.5	The client cash account balance is correctly calculated by the accurate and prompt recording of transactions.
13.6	All client ledger account balances as at the reconciliation date have been listed and totalled and no debit balances have been included in the total.
13.7	The total liabilities to clients as shown by such ledger accounts has been compared to the balance on the bank reconciliation statement and agreed.

13.8	Where the comparison in 13.6 and/or 13.7 shown above revealed differences, a reconciliation statement showing the cause of the differences had been prepared.
13.9	In the event of debit balances existing on client ledger accounts, the practice has investigated them and corrected the position without delay.
13.10	In the event of the reconciliations selected not agreeing, the differences have been investigated and corrected promptly.
13.11	The reconciliations were completed within 7 days of the reconciliation date to which they relate.
13.12	Each reconciliation selected has been achieved by the comparison and agreement without adjusting or balancing entries of the: <ul style="list-style-type: none"> • Client ledger balances total; • Client cash book(s) balances total; • Client bank accounts total
14.1	Reconciliations have been carried out at least once in each calendar month.
14.2	All client reconciliations were prepared at least once at the end of each calendar month.
14.3	Each reconciliation is in the form of a statement set out in a logical format which is likely to reveal any discrepancies.
14.4	The client bank reconciliation total has been compared with the balance on the client cash book(s).
14.5	The total of the client ledger credit balances has been compared with the balance on the client bank reconciliation statement.
14.6	Reconciliation statements have been retained on a durable medium.
14.7	In the event of the reconciliations selected not agreeing, reconciliation statements showing the cause of the differences have been prepared and the differences have been investigated and corrected promptly.