

Residual client account balances consultation

Statistical analysis of responses

Professional Ethics

1 October 2007

Question 1

Please indicate which of the following options you support:

- A. *an amendment to the Solicitors' Accounts Rules 1998 to permit a solicitor, within a prescribed framework, to withdraw money from client account, without prior SRA authorisation, where the solicitor has been unable to return the funds to the rightful owner; or*
- B. *retention of the current system which requires prior authority for the withdrawal of client funds.*

Option A: 49

Option B: 9

Eighty-four per cent of respondents to question 1 supported option A.

It should, however, be noted that 41 out of the 54 respondents to question 7 felt that there should be a limit above which SRA approval for the withdrawal of left-over client balances would still be required.

Question 2

Do you think that the reduction in the level of independent scrutiny in the proposed new self-administered scheme may result in solicitors taking a less robust approach to the safeguarding of client money and the keeping of proper accounting records?

Yes: 12

No: 41

Seventy-seven per cent of respondents to question 2 did not think that the withdrawal of independent scrutiny by the SRA would result in solicitors taking a less robust approach to the safeguarding of client money and the keeping of proper accounting records.

Question 3

Do you think that there is an increased risk of dishonesty if a new self-administered system is introduced?

Yes: 17

No: 36

Sixty-eight per cent of respondents to question 3 did not think that the proposed new scheme would lead to increased dishonesty.

Question 4

Do you think that the safeguards outlined in paragraph 15 of the discussion paper strike a proper balance between the solicitor's duty to return surplus client balances, and the benefits of solicitors being able to clear residual client account balances in a timely and administratively convenient fashion?

Yes: 41

No: 10

The consultation paper suggested various safeguards as part of any new scheme, such as appropriate attempts to trace and return funds to clients, obtaining an accountant's letter confirming the position, and keeping written records of the steps taken. Eighty per cent of respondents to question 4 felt that the proposed safeguards strike a proper balance between the duty to return surplus client funds and the ability to clear client account balances efficiently.

Question 5

Do you think that the proposed requirements are sufficiently stringent to safeguard clients' interests?

Yes: 45

No: 6

Eighty-eight per cent of respondents to question 5 thought that the proposed safeguards are sufficiently stringent to safeguard clients' interests.

Question 6

Do you think that the proposed requirements are overly prescriptive?

Yes: 12

No: 39

Twenty-four per cent of respondents to question 6 felt that the suggested safeguards are overly prescriptive.

Question 7

Do you think there should be a limit on the amount which a solicitor may withdraw from client account without permission from the SRA in respect of any one matter?

Yes: 41

No: 13

Seventy-six per cent of respondents to question 7 thought that a limit should be placed on the amount which may be withdrawn from client account in respect of any one matter without prior permission from the SRA.

The limits suggested ranged from £5 to £10,000. Thirty-six respondents suggested 19 different limits. The number of respondents favouring each suggested limit is set out below:

£5	1 respondent
£10	2 respondents
£20	3 respondents
£30	1 respondent
£50	5 respondents
£100	3 respondents
£150	1 respondent
£100-£200	1 respondent
£250	3 respondents
£500	3 respondents
£1,000	4 respondents
£2,500	1 respondent
£3,000	2 respondents
£5,000	1 respondent
£10,000	1 respondent
£10 UK - £50 overseas	1 respondent
£25 UK - £50 overseas	1 respondent
£1,000 individual - £10,000 company	1 respondent
£5,000 (plus an annual limit of £50,000)	1 respondent

The most popular suggestions were £50 (five respondents) at one end of the scale and £1,000 (four respondents) at the other end of the scale.

Question 8

Do you think that any new system should impose a requirement for solicitors to make an annual return to the SRA of the sums paid to charity?

Yes: 34

No: 19

Sixty-four per cent of respondents to question 8 supported a requirement for solicitors to make an annual return to the SRA of sums paid to charity.

Question 9

Do you think that the current system, if retained, could be improved?

Yes: 26

No: 26

Respondents were evenly split on question 9. Suggestions for improvement made by respondents did not go beyond a general request for a simpler and less bureaucratic system.

Question 10

Do you think that the SRA should, if it is able to do so, recover from the applicant solicitor, in appropriate circumstances, the cost to the SRA of administering applications for authority to withdraw surplus funds from client account?

Yes: 10

No: 41

Eighty per cent of respondents to question 10 opposed the suggestion that SRA costs be recovered from the solicitor.

Question 11

Do you support the proposal to impose a specific obligation to return residual client account balances within a reasonable time of the conclusion of a matter?

Yes: 39

No: 17

Seventy per cent of respondents to question 11 supported the proposal to introduce a specific obligation to return left-over balances within a reasonable time of the conclusion of a matter.

Question 12

Do you anticipate any practical difficulties in complying with a specific rule to return residual client account balances within a reasonable time of the conclusion of a matter?

Yes: 30

No: 23

Fifty-seven per cent of respondents to question 12 anticipated practical difficulties in complying with such a rule.

Question 13

Do you feel that the proposed new rule should give greater precision to the concept of "within a reasonable time" by specifying a period of time which would apply "in normal circumstances"? Assuming that the rule specifies a period of time, please state, with reasons, what period of time you think would be appropriate.

Yes: 32

No: 19

Sixty-three per cent of respondents to question 13 agreed that the proposed new rule should give greater precision to the concept of "within a reasonable time" by specifying a period of time which would apply "in normal circumstances".

Twenty-nine respondents suggested nine different time periods. These ranged from 28 days to five years, as follows:

28 days	2 respondents
2 months	1 respondent
3 months	7 respondents
6 months	6 respondents
6 months or 12 months	1 respondent
12 months	7 respondents
2 years	3 respondents
3 years	1 respondent
5 years	1 respondent

The most popular suggestions were three months (seven respondents), six months (six respondents) and twelve months (seven respondents). Of the 29 respondents who suggested a time period, only eight attempted to define from when that period should run.