

# Authorities of staff to withdraw from the trust account

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Money can be withdrawn from a trust account in two ways—by cheque or electronic funds transfer. Determining who within a law practice has the authority to withdraw funds from the trust account is an important decision for principals of a law firm—ultimately a principal will be held accountable for all dealings with trust money. There are obligations on principals of law firms to notify the Society about who is authorised to withdraw money from the trust account—whether as a signatory for cheques or as an internet banking user.

## Notification requirements

Every year a law firm must notify the Society of the people authorised as at 1 July to withdraw money from the trust account. This notification must match the approved signatories or internet banking user held by the bank. If the list provided by the law firm does not match the Society's records the law firm will be contacted to clarify any discrepancies. These usually arise because someone has left and not been removed as a signatory or someone has been added as a new signatory. This notification is provided via the online form system on the Society's website and is found with the rest of the Annual Notifications for trust accounts. *The Annual declaration of person authorised to*



*effect withdrawals*<sup>1</sup> needs to be submitted after 1 July but no later than 1 August each year.

The annual reporting of authorised persons is not the only time a law firm needs to notify the Society about the signatories to the trust account. Law firms are required to notify the Society each time someone new is given authority to facilitate the withdrawal of money from the trust account or an existing authorisation of a person is revoked by the law firm.

This update is given by completing the online notification on the Society's website. It is called *Update signatories to an existing account* and can be found in the 'Ad hoc' section

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on the Trust Account Notifications page.<sup>2</sup> It should be submitted within fourteen days of the change.

## Who can be authorised to withdraw trust monies?

The *Legal Profession Regulations* prescribes who may be permitted to sign a cheque or give effect to an electronic funds transfer. The person must be authorised and fall within one of the following categories:

- A principal
- An employed legal practitioner
- A legal practitioner who holds an unrestricted practising certificate
- Two or more employees (not necessarily legal practitioner employees) jointly.

## Managing who can withdraw trust money

Law firms should ensure that they have an internal procedure to keep track of the authorised signatories to the trust account. Two events will usually trigger a change—a new staff member being given authority or a staff member leaving the firm.

The exit process should include a check as to whether the departing staff member is a signatory to the trust account. If they are this should trigger steps to have that authorisation revoked with the bank and notify the Society.

Any staff induction process should include consideration as to whether the staff member should be authorised to operate the trust account, the level of authority (for example the ability to view the trust account details online but no authority to transfer money, etc.). Staff members should receive training about the law firm's processes

for paying money out of the trust account, including for example what documents are required before processing a payment, any signatures or authorisation required from principals, etc. Finally, don't forget to tell the Society!

- 1 To access this online notification go to [www.lawsocietynt.asn.au](http://www.lawsocietynt.asn.au), then select 'For the Profession'; 'Trust Accounts', 'Notifications', it is in the Annual Reporting Obligations section
- 2 Ibid, but scroll to the bottom of the page for the Ad Hoc notifications

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