

Electronic Funds Transfers

# Guidelines for trust account operations



## Queensland Law Society

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## 1. Approval required to make EFT trust payments

A Queensland law practice cannot disburse money from a law practice general trust account or controlled money account, by means of an electronic funds transfer, unless the law practice has been approved by the Queensland Law Society ('the Society') to make electronic funds transfer trust payments ('EFT trust payments').

The approval is granted for the specific law practice's trust account/s held at the time the approval is granted. If a law practice has been given approval to make EFT trust payments from a specific trust account/s and then changes trust account banker or opens a new general trust account, the law practice will need to reapply for approval in respect to the new law practice trust account. For the purposes of these Guidelines, general trust accounts and controlled money accounts approved by the Society for this purpose are referred to as 'EFT approved law practice trust accounts'.

Attached as 'Appendix A' is an example of the 'Application Letter' that the law practice can amend for their purposes.

It is a requirement that 'Appendix B' the 'Certificate in Support of Application for Approval' is attached to the law practice's application letter.

## 2. EFT instructions

Most law practices seek EFT approval to enable them to pay professional fees by transferring funds from the general trust account to the general office account. EFT trust payments can also be used to pay funds directly to a clients nominated bank account i.e. for reimbursement of funds.

An EFT trust payment is made by sending an EFT instruction to the financial institution with which the EFT approved law practice trust account is kept, authorising the financial institution to make the EFT trust payment.

An example of an EFT instruction is the law practice making the EFT payment through their own online internet banking portal i.e. a funds transfer. Another example of an EFT instruction is to send the instruction, in a bank form, requesting the bank to make the EFT payment i.e. Real Time Gross Settlement request form.

Payments **cannot** be made from a trust account by using the BPay system as this means of payment is not capable of recording all the required information on the financial institution statement (see Section 7 of these Guidelines for details of the information to be recorded on the financial institution statement).

## 3. Protection of user identification information and password

In order to send an EFT instruction to a financial institution, it is necessary to verify to the financial institution that the instruction has been sent by a person who has the law practice's authority to do so. This is usually done by entering the appropriate user identification information and a password.

It is absolutely imperative that the user identification information and password is kept secure. They are not to be advised to any other person, including staff members, under any circumstances. Nor are they to be stored in a way that another person may easily gain access to them.

Further, the password should consist of at least seven (7) characters, including letters of the alphabet and numbers and not be capable of being easily determined by a third party.

**It is important to remember that, without some other form of identification requirement, a person who knows the user identification information and password is in the same position as a person who has possession of a number of blank trust account cheque forms pre-signed by a trust account cheque signatory – they can withdraw the entire balance of the trust account and apply it to their own benefit.**

**Law practices are required to enter into arrangements with their financial institution that a third means of identification is to be satisfied before the financial institution will transfer funds from the law practice's trust account pursuant to an EFT instruction. That third means of identification can be in the form of a token ring, or some other implement that must be physically held by the person sending the EFT instruction to the financial institution.**

Staff members can be given 'read only' access to an EFT approved law practice trust account for the purpose of checking transactions recorded against the account and printing online financial institution statements but their password must be different to the password of any person who has authority to send an EFT instruction authorising the electronic transfer of money from the account.

## 4. Authorising EFT instruction

An EFT instruction can only be sent by an authorised trust account cheque signatory.

Notification of appointment or termination of signatories on the trust account must be provided to the Society.

## 5. Numbering of EFT instructions

All EFT instructions are to be sequentially assigned a reference number. The reference number assigned to the EFT instruction is to be included in the instructions sent to the financial institution.

It is suggested that separate sequences of numbers be kept for each financial institution trust account (if more than one trust account is kept). For example CBA14/01 or NAB14/01.

It is also suggested that a separate sequence of numbers be kept for EFT instructions in relation to all controlled money accounts. For example, if three controlled money accounts are kept, only one sequence of numbers would be used for EFT trust payments from these controlled money accounts. The initials 'CMA' (standing for Controlled Money Account) could be used to distinguish controlled money account EFT trust payments from general trust account EFT trust payments, with the first number in the 2014 calendar year being CMA14/1 and the second being CMA14/2.

Multiple EFT payments may also be a method that the law practice utilises. These types of EFT payments should also have their own separate sequences. For example EFT14/01-MULT.

## 6. Screen prints

A screen print of the EFT instruction is to be produced immediately after the EFT instruction has been sent to the financial institution, or, if the system is not capable of producing a screen print after the instruction has been sent, a screen print is to be produced immediately before the instruction is sent. The screen print is to be attached to the relevant 'EFT transaction summary form' referred to in Section 8 of these Guidelines.

The required screen print is also known as a lodgement receipt, bank acknowledgement or confirmation statement. If these are unable to be generated, a screen shot of the instruction should be taken.

## 7. Information to be recorded on financial institution statements

Arrangements are to be made with the financial institution that the following information will be recorded on the financial institution statement in respect of each EFT payment:

- 7.1. the date the EFT payment was made;
- 7.2. the EFT reference number generated by the law practice (eg EFT14/01 or CBA14/1) if this is unable to be produced then the transaction identification number of the EFT payment must also be recorded to link the trust records together;
- 7.3. the amount of the EFT payment.

## 8. EFT trust payment transaction summary form

An 'EFT trust payment transaction summary form' is to be completed for each EFT instruction and is to be signed by the person who prepares the form and the trust account cheque signatory, or signatories, that send the EFT instruction.

'EFT trust payment transaction summary forms' **must** have the screen print of the EFT instruction attached to them and are to record the following details:

- 8.1. the **date** the EFT instruction is sent;
- 8.2. the **EFT reference number**, generated by the law practice, that will appear on the financial institution statement (more commonly known as a bank statement) – e.g. EFT14/01 or CBA14/1;
- 8.3. the bank **transaction identification number**;

- 8.4. the **amount** instructed to be transferred/paid;
- 8.5. the **name** and **number** of the account to which the amount is to be transferred/paid and the relevant **BSB number**;
- 8.6. **Payee name** e.g. the name of the person to whom the payment is being made or, in the case of a payment to a financial institution, the name of the financial institution and the name of the person who is to receive the benefit of the payment;
- 8.7. the name of the person on **whose behalf** the transfer/payment is to be made;
- 8.8. details clearly identifying the trust ledger account or controlled money account to be debited (client name, matter name and matter number if there is a matter number);
- 8.9. particulars sufficient to identify the **purpose** for which the transfer/payment is to be made;
- 8.10. the identity and signature of the person who **prepared** the transaction summary form;
- 8.11. the identity and signature of the person or persons who sent/**authorised** the EFT instruction.

Attached as 'Appendix C' is an example of the 'EFT trust payment transaction summary form'.

EFT trust payment transaction summary forms must be prepared in paper form.

Original EFT trust payment transaction summary forms are to be kept in sequential number order as a trust accounting record for a period of not less than seven (7) years. In addition, copies of EFT trust payment transaction summary forms can be, but need not be, kept on the relevant client files.

## 9. Recording EFT trust payments in trust accounting records

Details of an EFT payment from a general trust account are to be recorded in the trust account cash payment book and the relevant trust ledger account. The payment is to be recorded in a similar manner to a trust account cheque.

Details of an EFT payment from a controlled money account are to be recorded in the relevant controlled money account movement record.

Details of an EFT payment are to be recorded in the relevant trust accounting records within two days of the payment.

The information to be recorded in respect of each payment is the information set out in Section 8 of these Guidelines.

## 10. Verification of EFT trust payments

Financial institution statements are to be viewed for EFT approved trust accounts each day before 10am and an online financial institution statement is to be printed for any EFT approved trust account in respect of which any payments have been debited to the account since a financial institution statement (including an online statement) was last printed.

If it is necessary to print an online financial institution statement, it is to be reconciled to the law practice's trust account cashbook balance, or controlled money movement record, before 11am on that day, to ensure that there have been no unauthorised debits to the EFT approved trust account and that the information recorded on the financial institution statement in respect of each EFT payment is the same as the information recorded in the relevant 'EFT transaction summary form'.

In the case of a general trust account:

- 10.1. The reconciliation is simply a reconciliation of the financial institution statement balance to the trust account cashbook balance. There is no need to reconcile, more frequently than at the end of each month, the cashbook balance to the trust ledger balance.
- 10.2. The person who reconciled the trust account financial institution statement balance to the law practice's trust account cashbook balance is to complete a Certificate (Appendix F) which is to be retained as a permanent record with the trust account financial institution statement.

10.3. In the event of there being a discrepancy between the information recorded on the financial institution statement and the information recorded in the law practice's trust accounting records, the partner of the law practice to whom the discrepancy is reported is to immediately refer the discrepancy to the financial institution for investigation and correction and to:

- the Trust Accounts Investigation Team of the Society; and
- the law practice's trust account external examiner.

## 11. Notification to QLS of first EFT trust payment

Law practices are required, within seven (7) days of making their first EFT payment from a general trust account, or controlled money account, to give a notification to the Society to that effect.

Attached as 'Appendix D' is an example of the 'Notification of 1st EFT Trust Payment' that the law practice can amend for their purposes.

The notification letter is required to be supported with the relevant EFT trust payment transaction summary form and screen print of the EFT instruction sent.

## 12. Notification of trust account cheque signatories and new staff of law practice

The law practice should advise the Society of any changes to trust account cheque signatories as this may affect the authorisation of EFT trust payments.

The law practice should complete the Certificate (Appendix B) to inform the Society of new staff of the law practice that have read the Guidelines.

## 13. Certificate from External Examiner

Law practices are required to provide to the Society with each External Examination Report, a Certificate from their External Examiner as to whether they have implemented and observed procedures and practices that comply with these Guidelines.

Attached as 'Appendix E' is an example of the 'External Examiner Certificate' that the law practice is required to provide to their External Examiner for completion at the end of each audit period.

## 14. Cancellation of approval to make EFT trust payments

Failure to comply with these Guidelines may result in the Society cancelling the law practice's approval to disburse money from general trust accounts and controlled money accounts by EFT payments. If the Society cancels a law practice's approval, the Society will advise the relevant financial institution, to that effect.

# Appendix A

## Application Letter

DATE

### **PRIVATE & CONFIDENTIAL**

General Manager  
Professional Leadership  
Queensland Law Society  
GPO Box 1785  
BRISBANE QLD 4001

Dear Sir

#### **APPLICATION FOR APPROVAL TO MAKE EFT TRUST PAYMENTS**

XYZ Law Practice hereby applies to the Queensland Law Society for approval to make EFT payments from their trust accounts (general trust accounts and controlled money accounts).

I enclose a Certificate, signed by a principal of XYZ Law Practice, in support of the application.

Yours faithfully

XYZ Law Practice



## Appendix B

### Certificate in Support of Application for Approval to Make EFT Trust Payments

I, ....., the sole principal/a principal/ a law practice director of .....  
....., law practice ('the law practice'), certify that the Electronic Funds Transfers Guidelines prepared by the Queensland Law Society ('the Guidelines') have been read and, to the best of my knowledge, are understood by all authorised trust account cheque signatories, all staff of the law practice involved in the management of the trust account and all staff involved in the making of EFT payments.

I further certify that, to the best of my knowledge, suitable practices and procedures have been implemented and will be observed by the law practice to comply with the Guidelines.

Details of the trust account cheque signatories and staff of the law practice that have read the Guidelines are set out hereunder:

Name	Job Description	Trust account signatory
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N
		Y / N

..... Signature

..... Name of principal/partner

..... Date

## Appendix C

### EFT Trust Payment Transaction Summary Form

General Trust Account/Controlled Money Account\*

\* Delete whichever is not appropriate

<b>Date</b>	
<b>EFT reference number</b>	
<b>Bank transaction identification number</b>	
<b>Amount</b>	
<b>Payee financial institution account name and number</b>	
<b>Payee financial institution BSB number</b>	
<b>Payee name (if the payee is a financial institution, also record the name of the person receiving the benefit of the payment)</b>	
<b>Paid on behalf of</b>	
<b>Debit trust ledger account or controlled money account (client, matter name and number, if there is a number)</b>	
<b>Purpose of payment</b>	
<b>Name &amp; position of person who prepared this form</b>	
<b>Signature of person who prepared this form</b>	
<b>Name &amp; position of person who authorised payment</b>	
<b>Signature of person who authorised payment</b>	

## Appendix D

### Notification of First EFT Trust Payment

DATE

#### **PRIVATE & CONFIDENTIAL**

The Manager  
Trust Account Investigations  
Queensland Law Society  
GPO Box 1785  
BRISBANE QLD 4001

Dear Sir

#### NOTIFICATION OF FIRST EFT TRUST PAYMENT

I refer to the Society's letter of ..... wherein the Society advised that XYZ Law Practice has been approved to make EFT trust payments.

I advise that XYZ Law Practice has made its first EFT trust payment.

Details of that payment are recorded on the enclosed copy of the transaction summary form and relevant screen print.

I confirm that XYZ Law Practice complied with the requirements of the Electronic Funds Transfers Guidelines prepared by the Society in respect of that payment.

Yours faithfully

XYZ Law Practice

# Appendix E

## External Examiner Certificate

Certificate from External Examiner as to whether law practice has complied with Queensland Law Society's Electronic Funds Transfers guidelines for trust account operations ('the guidelines')

I, ....., the external examiner of the law practice, ....., certify that:

1. The law practice appears to have complied with the guidelines in respect of all EFT trust payments noted during the external examination; OR (strike out whichever of 1 or 2 is not applicable)
2. The law practice appears to have complied with the guidelines in respect of all EFT trust payments noted during the external examination other than the following:

Name of trust account payment made from	Date of payment	EFT payment ref no	Amount	Details of non-compliance

3. The following EFT trust payments were noted during the external examination and appear to have been made in accordance with the guidelines (list no more than 5 EFT trust payments; if less than 5 were noted, list all that were noted):

Name of trust account payment made from	Date of payment	EFT payment ref no	Amount	Payee

..... Signature

..... Name of external examiner

..... Date

# Appendix F

## Trust Account Reconciliation Certificate

I, .....(insert name and position held in the law practice)  
reconciled the trust account financial institution statement balance to the trust account cashbook balance for  
transactions posted to the account on ..... (insert date).I attach a copy of the reconciliation  
and certify that:

1. The amounts debited to the financial institution statement were the amounts recorded in the trust accounting records apart from the following: (insert particulars of unauthorised debits recorded on the financial institution statement and particulars of variations)

.....  
.....

2. The information recorded on the financial institution statement in respect of money paid by electronic funds transfers agrees with the information recorded in the trust accounting records, including the EFT transaction summary form apart from the following:

(insert particulars of variations)

.....  
.....

3. I have reported to ....., a partner of the law practice, details of all exception particulars required to be inserted in this certificate.

.....

Signed by me at ..... (insert time), this ..... day of ....., 20.....