

Client Money Handling Procedure

Introduction

Rule 8 of the RICS Rules of Conduct for Firms states: 'A firm shall preserve the security of clients' money entrusted to its care in the course of its practice or business'.

This professional statement reinforces the importance of ensuring that RICS members and RICS-regulated firms comply with their professional requirements and that client funds are properly protected.

RICS Client Money Protection Scheme Rules

In April 2019 RICS updated the scheme rules for client money protection following the Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018 coming into effect.

RICS-regulated firms that hold client money must therefore ensure that they are registered with the appropriate RICS scheme:

- The RICS Client Money Protection Scheme for Surveying Services, which generally applies for client money held by RICS-regulated firms in the United Kingdom or
- The RICS Client Money Protection Scheme for Property Agents, which meets the specific provisions that apply for property agents from 1 April 2019 for client money held in connection with letting agency work and property management work in England.

Objectives

The overall objective of these procedures are to ensure:

- Client money is kept safe;
- Client money accounts are used for appropriate purposes; and
- Charterfields have the appropriate controls and procedures to safeguard client money

Glossary

The following definitions relate to this handling procedure and do not include legal or other matters as defined in relation to legislative or regulatory requirements.

Bank account details

the account name and the name and address of the bank holding the account.

Bank mandate

This states the rights and obligations of the firm and includes names of authorised signatories. The mandate is created when the account is set up and is a contract between the bank and the account holder setting out terms and conditions for the use of banking services.

Client

Any person, firm, trust, body corporate or other organisation that is a client of an RICS-regulated firm.



Client money	<p>Money of any currency (whether in the form of cash, cheque, draft or electronic transfer) that:</p> <ul style="list-style-type: none"> a) an RICS-regulated firm holds for or receives on behalf of another person, including money held by a regulated firm as stakeholder and b) is not immediately due and payable on demand to the RICS-regulated firm for its own account, <p>excluding fees paid in advance for professional work agreed to be performed, and clearly identifiable as such, unless the fees are for work undertaken as a property agent as defined by the Rules of the RICS Client Money Protection Scheme for Property Agents.</p>
Client money account	<p>An account in the name of an RICS-regulated firm, a wholly owned subsidiary company of the firm holding client money that belongs to:</p> <ul style="list-style-type: none"> a) a single client or the firm (discrete client money account) or b) more than one client of the firm (general client money account)
Client ledgers	<p>Records of all payments and receipts relating to a client in chronological order. Ledgers provide a running balance that shows the amount of money held by the firm on behalf of that client at all times. Client ledgers are necessary where general client bank accounts are in use.</p>
Exclusive control	<p>A bank mandate or contractual arrangement whereby the firm remains in full control of all money movement in the client money account, including when transaction services are outsourced to third-party service providers.</p>
Mixed monies	<p>Receipts that combine client money and office money in a single amount.</p>
Office money	<p>Money of any currency belonging wholly to the RICS-regulated firm or its principals.</p>
Outstanding deposits	<p>Receipts paid into the account that have not yet appeared on the bank statement</p>
Overdrawn balances	<p>An overall shortage (or deficit) of client money, for example:</p> <ul style="list-style-type: none"> a) a balance on a client ledger in a general client account that shows payments have exceeded the amount of money held on behalf of that client b) a bank account where the position shown by bank statements is overdrawn



Principal	As defined in the RICS Rules for the Registration of Firms.
Promptly	This means no later than seven days from receipt or discovery, except for the rectification of breaches where promptly means no later than three days from discovery.
Reconciliation	This formally documents the agreement of the bank statement balance to the total of client money held recorded by the client ledger for the general client account, to the total of the individual client balances as recorded by the client ledger, setting out an explanation for any differences.
Reconciling items	<p>Receipts and payments recorded in the cash book that have not yet cleared the client bank account, usually:</p> <ul style="list-style-type: none"> a) unpresented cheques and outstanding deposits b) items that have appeared on the bank statements but are not yet recorded in the client accounting records such as unidentified client money or c) items recorded and not yet entered into the client ledgers.
Relevant banking regulatory body	In England, Scotland, Wales and Northern Ireland, the relevant banking regulatory body is the Prudential Regulatory Authority and the Financial Conduct Authority. In Guernsey, it is the Guernsey Financial Services Commission and in the Isle of Man, it is the Isle of Man's Financial Services Authority.
Running balance	A client ledger balance that is updated every time a payment is made or a receipt recorded and so always shows the current position.
Scheme Rules	The RICS Client Money Protection Scheme Rules.
Unidentified client money	Client money where the beneficiary is unknown or cannot be traced, preventing payments to the client. (See Client money)
United Kingdom	The United Kingdom of Great Britain and Northern Ireland, the Isle of Man and Channel Islands



All principals in Charterfields will ensure they and everyone employed in the firm complies with these procedures.

If client money is held by a wholly-owned subsidiary company on behalf of Charterfields, or an appropriately contracted third-party transaction service provider, Charterfields and its principals remain responsible for holding client money securely in compliance with these procedures and must ensure all information and records relating to client money are available to RICS on request.

Requirements for RICS firms

Receipts of client money

In relation to receipts of client money, Charterfields will:

- ensure all client money received is paid into a client money account promptly;
- ensure that when mixed monies are received the receipt is paid into a client money account and the office money is transferred into the office account promptly;
- ensure that where client instructions are to hold only part of a payment the whole payment is placed into a client money account before transferring the relevant part out promptly;
- take prompt action to attempt to identify the owner of any unidentified client money received and pay this from a client money account to a registered charity where the owner cannot be identified after three years from receipt and all avenues of investigation have been exhausted;
- obtain a receipt and indemnity of all client money paid to a registered charity that would reimburse the firm for payment of the monies if a beneficiary is subsequently identified.

Controls on the receipt of client money

All cash and cheques received by post will be logged and there will be procedures to check that all funds received are banked.

Charterfields will ensure that cash and cheques are kept safe until they are banked. All cash and cheques should be banked promptly.

If the firm accepts payments into the client money account by direct debit, the firm should ensure compliance with the requirements of the Direct Debit Guarantee scheme.

Holding client money

In relation to holding client money, Charterfields will:

- hold all client money in a client money account over which Charterfields has exclusive control at a bank or building society authorised by the relevant banking regulatory body for the jurisdiction;
- ensure that all client money accounts include the word 'client (written in full) and Charterfields name in the title of the account.



- ensure that money held in a client account is immediately available even at the sacrifice of interest, unless other arrangements are in the best interests of the client and the client has given express instructions in writing;
- ensure that where the client has given instructions to hold monies in a high interest account with penalties for instant access, penalties are only paid out of the client account if the client has provided specific informed consent and this will not result in an overdrawn balance – otherwise the bank must be instructed that penalties are to be applied to the office account;
- confirm the bank operating conditions in writing with the bank that holds the client money account, including acknowledgment from the bank that monies in the client money account will not be combined with or transferred to any other account maintained by Charterfields – the bank is not entitled to exercise any set-off or counterclaim against money in that client money account for any sum owed to it for any other account of the Charterfields;
- ensure that where a client requests that money is held in an account to which it and the firm has access, this is a bank account set up by the client, not a firm bank account.

Payments from client account

In relation to payments from the client account, Charterfields will:

- use each client's money only for that client's matter;
- ensure that client money is returned to the client immediately as soon as there is no longer any reason to retain those funds, and any further payments received (e.g. by refund) are paid to the client immediately;
- ensure all payments from client money accounts are made to or on behalf of a client and on that client's written instructions or as agreed in the management agreement;
 - when fees are due and payable, unless the client has given written authorisation for deduction of agreed fees without prior notification, send an invoice or other written notification of the costs incurred to the client before withdrawing money from a client money account for payment of Charterfields' fees, and then transfer those monies out of the client account promptly;
 - check that sufficient funds are held for the relevant client before making any payments on their behalf;
 - obtain written permission from clients for any direct debits and standing orders on general and discrete client bank accounts;
 - obtain written agreement from the client before bank costs are recharged to client bank accounts.

Payment controls

Requirements for all payment requests must have supporting evidence that has been checked and authorised. This is to ensure an adequate segregation of duties in the client accounting function to prevent data tampering with the payments process.



Accounting records and controls

In relation to accounting records and controls, Charterfields will:

- keep records and accounts that show all dealings with the client money and demonstrate that all client money held by Charterfields is held in a client money account;
- have appropriate systems, procedures and controls to ensure payments into and transfers or withdrawals from a client account are in accordance with instructions agreed with the client;
- complete regular client bank account reconciliations and demonstrate that these are reviewed by a principal or senior staff member;
- ensure that overdrawn balances are prevented by the firm's systems and controls, and if these do occur investigate and rectify them immediately;
- control and protect accounting systems and client data and adequately protect computer systems for access, firewalls, back-ups and disaster recovery.

Reconciliations

A reconciliation is completed once per calendar month and no later than six weeks after the date of the previous conciliation. If there are only one or two transactions per month, a quarterly basis shall be sufficient.

The reconciliation will show the client ledger and bank statement balances with any reconciling items clearly explained. Any errors identified should be rectified immediately.

Client money account reconciliations include a full list of:

- dated unpresented cheques;
- dated outstanding deposits;
- details of any other reconciling items; and
- for general client money account reconciliations, client ledger balances and the total of the balances.

Where accounts packages are used, reports are retained to evidence the figures in the monthly reconciliations. A report of client ledger balances (to include a total at the reconciliation date) will be produced and retained as hard copy or

The principal, or other senior staff member, who reviews the reconciliation will sign and date the reconciliation report.

General controls

Procedures ensure clear segregation of duties and responsibilities and a principal or appropriately-qualified person should oversee the client accounting function.



Compliance

In relation to compliance, Charterfields will:

- ensure compliance with all anti-money laundering legislation, rules and regulations for all receipts of client money;
- ensure compliance with the mandatory requirements of the latest edition of the RICS professional statement Countering bribery and corruption, money laundering and terrorist financing;
- obtain any certification required under legislation currently in force and follow any requirements in the legislation for display or publication;
- ensure that any breach of these requirements is investigated and remedied promptly on discovery, including the replacement of any money improperly withheld or withdrawn from a client account;
- record any breach of mandatory requirements of this professional statement in writing in sufficient detail including any consideration of whether to inform RICS and any client affected by the breach
- inform **RICS**, the client and the insurers of the **RICS**-regulated firm immediately if client money is misappropriated by any person.

