

Reporting Certain Irregularities and Suspected Irregularities

Section 227 of the *Legal Profession Act 2008* (the Act) provides:

(1) *As soon as practicable after a legal practitioner associate of a law practice becomes aware that there is an irregularity in any of the practice's trust accounts or trust ledger accounts, the associate must give written notice of the irregularity to —*

(a) *the Board; and*

(b) *if a corresponding authority is responsible for the regulation of the accounts concerned — the corresponding authority.*

Penalty: a fine of \$5,000.

(2) *If an Australian legal practitioner believes on reasonable grounds that there is an irregularity in connection with the receipt, recording or disbursement of any trust money received by a law practice of which the practitioner is not a legal practitioner associate, the practitioner must, as soon as practicable after forming the belief, give written notice of it to —*

(a) *the Board; and*

(b) *if a corresponding authority is responsible for the regulation of the accounts concerned — the corresponding authority.*

Penalty: a fine of \$5,000.

Where clients pay trust money into the general account of the law practice by mistake, these mistakes constitute irregularities which must be reported to the Legal Practice Board (**Board**).

If a legal practitioner, whether an associate of the law practice, or not, becomes aware of or forms a belief that there is an irregularity in any of the practice's trust accounts or trust ledger accounts, written notice of the irregularity must be given to the Board.

A breach of ss 227(1) or (2) carries criminal responsibility in that the remedy, a financial penalty, has significant consequences, including the possible conviction for a criminal offence.

Accordingly, any payment of trust money into the general account of the law practice, by mistake or otherwise, must be treated and reported to the Board in writing as an irregularity.

Some examples of the most common types of irregularities reported to the Board are:

- Trust funds deposited, in error to general account (by client or law practice).
- Overpayment of invoices.
- Overdrawn trust ledgers due to transposition errors, bank errors and drawing against uncleared funds.
- Clerical, posting and other errors.

Authorised Deposit Taking Institutions, or ADI's, are also required by section 244(1) of the Act to report any deficiency in a trust account to the Board.

Form of Notification

Notifications should be reported via e-mail to general@lpbwa.com, without any annexures, in the following format:

HEADING: Trust a/c Irregularity [Law Practice Name]

On [*insert the date of the irregularity*] Amount involved [\$] Description [*What happened*].

Date [*date error identified*] Date [*date error corrected*] Description [*How corrected*].

Should the Board require further information on the irregularity reported, a Trust Account Inspector will contact you directly.

NB: Supporting documentation or hard copy reporting is not required.

Notifications lodged via e-mail at general@lpbwa.com will receive an immediate acknowledgement.

Contact

If you have any queries, please contact:

Trust Account Inspectors Team
Legal Practice Board
Telephone: 6211 3600 Facsimile: 6211 3650
general@lpbwa.com <http://www.lpbwa.org.au>