

IT'S NOT JUST
PEANUTS



THE
ACCESS
TO JUSTICE
FOUNDATION

Campaign information for law firms

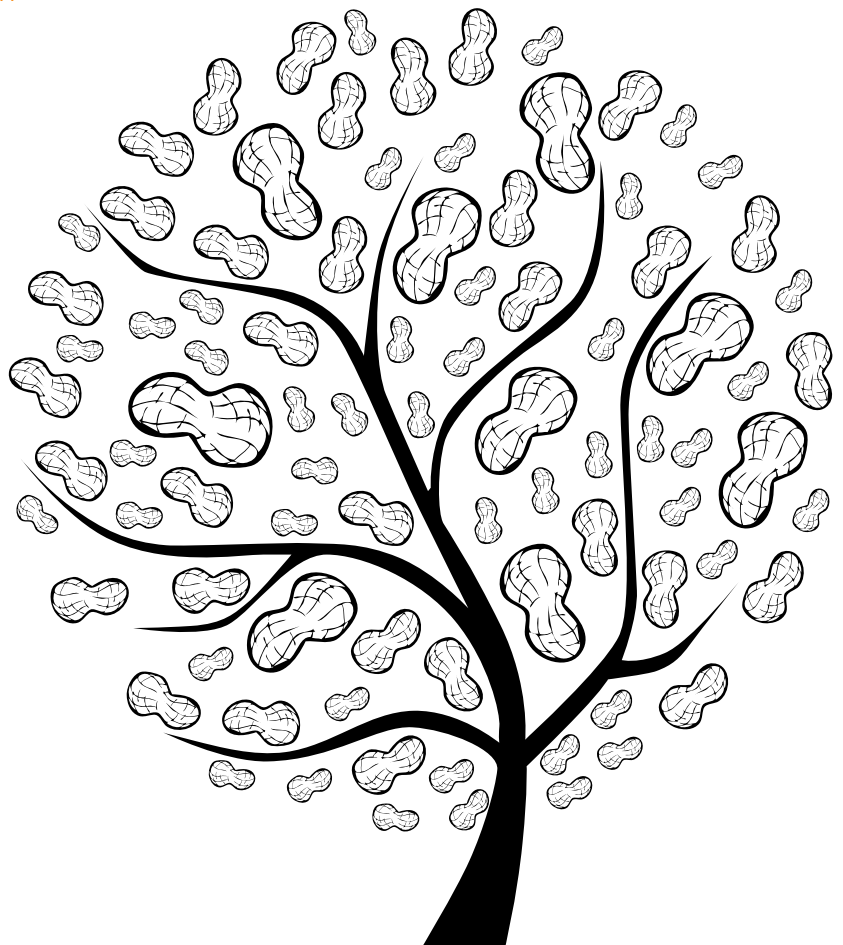
Releasing dormant client account funds to support
The Access for Justice Foundation

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Campaign information for law firms

“balances under £50 can be paid to charity without SRA permission provided certain safeguards are met...”

THE IT'S NOT JUST PEANUTS APPEAL

The Access to Justice Foundation is mobilising solicitors across the country to work with the Foundation to gain as many client balances “under £50” which have remained dormant and where the client can no longer be traced. The aim is to encourage participation by firms in the light of the fact that there is a recognisable administrative burden on Finance Managers to do this. Whilst not the focus of the initial campaign, it is also hoped that sums over £50 will be donated, but these require the firm to apply to the SRA on a case by case basis.

Although to many firms the funds generated seem relatively small, collectively they will represent a significant contribution towards the work of The Access to Justice Foundation which is vital at this time of Government cuts to legal aid.

BACKGROUND

Unclaimed client account balances are sums of money which lie dormant in the client account of solicitors’ firms, potentially for many years, where the rightful owner:

- cannot be traced;
- will not provide instructions on how the funds should be dealt with; or
- where monies returned to the client have not been cashed.

In 2008 the *Solicitors Regulatory Authority* relaxed the rules on payment of unclaimed client account balances under £50 to charity. Firms are required to return balances on client accounts “promptly” as soon as there is no reason to retain the funds. However, where the rightful owner cannot be traced, rule 22 (2A) of the *Solicitors’ Accounts Rules* permits balances under £50 to be paid to charity without SRA permission provided certain safeguards are met, including taking and recording adequate steps to identify and return the funds to the rightful owner. Amounts over £50 can also be paid to charity provided SRA permission is granted.

Unclaimed client account balances may not be used for any other purpose and are an administrative burden to Finance Managers who must analyse and explain the existence of these client balances to auditors annually. Consequently, it seems sensible to donate these payments to charity.

Some firms may already have procedures in place to donate these balances to charity.

If they have, then The Access to Justice Foundation is keen to work with firms to direct those funds to benefit those who have difficulty in getting access to justice.

WHY THE ACCESS TO JUSTICE FOUNDATION?

The Access to Justice Foundation is the legal profession’s charity to support pro bono and advice agencies. It was established by the Law Society, Bar Council, ILEX and Advice Services Alliance. Uniquely, its formation was envisaged under statute, and it is the prescribed recipient of ‘pro bono costs’. The Foundation is joined by a network of seven regional legal support trusts, ensuring funds can be distributed where needed most throughout England and Wales.

Using funds raised by lawyers, The Access to Justice Foundation provides grants to pro bono charities, Law Centres, CABs and other advice agencies. The aim is to support the provision of free legal assistance to members of the public in poverty but not eligible for legal aid. By donating unclaimed client balances to the Foundation, law firms can ensure inactive money is used to support vulnerable people in their region obtaining legal help.

The Access to Justice Foundation can make available:

- Q&A on the regulatory framework for Finance Managers;
- a template letter; and
- a point of contact for further information.

RECOGNITION

The Access to Justice Foundation is very grateful for the time and effort to donate these sums. In recognition of its gratitude the Foundation will:

- send a formal certificate publicly thanking the firm, signed by the Chair of the Foundation, at the conclusion of a set of donations;
- record the firm’s support on the Foundation’s website and annual report; and
- provide the firm with an emblem logo for use in a firm’s CSR brochure or website.

The Access to Justice Foundation will work with media outlets to highlight the contribution of firms. However, information on the size of donations will remain confidential unless otherwise agreed with firms.



Guide to materials

The *It's Not Just Peanuts* campaign is designed to help mobilise solicitors across the country to work with The Access to Justice Foundation to gain as many client balances "under £50" which have remained dormant and where the client can no longer be traced.

This document will help to navigate you through all of the materials provided in the campaign pack.

Q&A

The Q&A is for your reference, and should provide answers to questions you may have about The Access to Justice Foundation, the origins of the campaign and how you can get involved. The Q&A provides useful information on how and why law firms should clear their unclaimed client accounts to use as charitable donations to support free legal help.

TEMPLATE LETTER FOR FINANCE MANAGERS

The template letter for Finance Managers is a ready-to-use skeleton letter for Finance Managers to send to client account holders in accordance with SRA rules for releasing dormant funds.

SRA rules state that Finance Managers must make "reasonable" attempts to contact the client account holder before funds can be released. The template letter provides an indicative basis by which Finance Managers can use to make attempts to engage with account holders.

Fill in the details as appropriate in the draft letter, and send it to your clients, simple!

IT'S NOT JUST PEANUTS POSTERS

The campaign posters can be mounted in your office foyer, and in other suitable areas around your office. They will help to educate your colleagues as well as visitors on the details of, and your involvement in the *It's Not Just Peanuts* campaign.

For further information or assistance please email: clientbalances@ATJF.org.uk

Q and A

“Unclaimed client account balances may not be used for any other purpose and are an administrative burden...”

Q&A UNCLAIMED CLIENT ACCOUNT BALANCES

What are unclaimed balances?

Unclaimed client account balances are sums of money which lie dormant in the client accounts of solicitors' firms potentially for many years where individuals cannot be traced.

Why should firms clear their unclaimed balances?

Since July 2008, firms have been required to return balances on the client account “promptly” as soon as there is no reason to retain the funds.

Unclaimed client account balances may not be used for any other purpose and are an administrative burden to Finance Managers who must analyse and explain the existence of these client balances to auditors annually.

Client account balances where the rightful owner cannot be traced may be paid to charity under the Solicitors Accounts Rules.

Why donate the balances to The Access to Justice Foundation?

The Access to Justice Foundation is a unique national charity which provides grant funding to support pro bono and advice agencies across England and Wales such as Law Centres and independent charities providing free legal advice to members of the public who cannot afford legal advice and are not eligible for legal aid. By offering unclaimed client account funds to The Access to Justice Foundation, solicitors firms can ensure that monies which would otherwise remain inactive in client accounts go directly to support those that are vulnerable and anxious so that they are given the opportunity to receive legal help.

Do we need SRA authorisation to pay unclaimed client account balances to charity?

(a) Balances less than £50

Solicitors do not need SRA approval to pay amounts which do not exceed £50 to charity provided the firm complies with **rule 22 (2A) of the Solicitors Accounts Rules**:

- the solicitor makes reasonable attempts to establish the identity of the money's owner

- makes adequate attempts to ascertain the proper destination of the money and to return it to the rightful owner, unless the reasonable costs of doing so are likely to be excessive; *for example, writing to the owners last known address and attempting to make contact by phone, searching the electoral roll and in the case of business clients, searching Companies House* (see page 5 for useful websites);
- pays the funds to charity;
- records the above steps taken, and keeps all relevant documentation such as the attempted correspondence, and the receipts from the charity; and
- keeps a central register in accordance with rule 32 (13A).

For further information see the practice note prepared by the Law Society of 8 Sept 2010 on unclaimed client funds at: http://www.lawsociety.org.uk/productsandservices/practicenotes/unclaimedfunds/4552.article#ucf3_1

(b) Balances over £50

Solicitors do need SRA authorisation under rule 22 (1)(H) from the Professional Ethics Guidance Team who can be contacted as follows:

0870 606 2577
professional.ethics@sra.org.uk
 Solicitors Regulation Authority,
 Professional Ethics, Ipsley Court,
 Berrington Close, Redditch B98
 OTD or DX 19114 Redditch.

You will need to submit the application form to the SRA which can be found with guidance at <http://www.sra.org.uk/guidance-sar/>

The Access to Justice Foundation will provide a written indemnity to the donating law firm as required by the SRA.

Please refer to rules 15 (3), 15 (4) and 22 (2A) of the Solicitors' Accounts Rules for full details of the changes.



HOW TO DONATE

Please send the cheque to *The Access to Justice Foundation, PO Box 64162, London WC1A 9AN*. Include a note with the client name and internal reference number, and the Foundation will send you a receipt, and an indemnity for sums over £50.

Alternatively, transfer the funds to *account number 00018272, sort code 40-52-40, account name "The Access to Justice Foundation"*. Please ensure the firm's name is included in the transfer reference. Either write to the above PO Box, or email clientbalances@ATJF.org.uk with the donation details so that a receipt can be sent.

USEFUL TIPS ON TRACING CLIENTS

- For individuals, a subscription to www.192.com gives access to the electoral role, directory enquiries, director reports and birth, death and marriage records. It also allows you to search by address which is useful when trying to verify if the last known address you have for a client is still accurate.
- <http://www.dwp.gov.uk/other-specialists/bulk-letter-forwarding-service/>

This is the letter forwarding service suggested by the SRA.

- http://www.ancestry.co.uk/default.aspx?o_iid=41029&o_lid=41029

This site is useful when trying to trace individuals or next of kin.

- <http://direct.companieshouse.gov.uk/>

The Companies House site is useful for establishing the status of companies, details of administrators, registered office details and the names of current and ex-directors including their home address.

- Internet Google search

Participants' materials:

Template letter for Finance Managers

This is a sample final letter to send to the owner of dormant funds. It should be accompanied by the letter on the following page which provides more information about The Access to Justice Foundation.

This template letter can be downloaded from www.ATJF.org.uk/clientbalances

	[On Letter Head]
[date]	
Direct line	Our ref
Direct fax	Matter ref
Dear	
<p>Following a review of our accounts, it has come to light that we hold in our client account the sum of £xx on your behalf. Accordingly, I am writing to you to ask whether you would like this sum returned to you.</p> <p>We have made two previous attempts to contact you to return this money to you in [] and [].</p> <p>If you prefer not to accept receipt of these funds, we should be happy with your permission, to donate them to a charity of your choice / The Access to Justice Foundation (details of which are attached).</p> <p>Alternatively, if we do not hear from you within [xx] days we will consider that these funds fall within the rule 22 (2A) of Solicitors' Accounts Rules and make arrangement to donate them to The Access to Justice Foundation as part of their campaign to support the provision of free legal advice to those that are in need. Further details are attached.</p> <p>Yours sincerely,</p> <p>[] Finance Operations Manager Encs: Dormant funds - time to act</p>	

Participants' materials:

Letter to participants' clients

This is the letter to accompany the final letter to the owner of the dormant funds.

This template letter can be downloaded from www.ATJF.org.uk/clientbalances



THE
ACCESS
TO JUSTICE
FOUNDATION

Dormant funds - time to act

The Access to Justice Foundation (the "Foundation") is the legal profession's charity to support pro bono and advice agencies. It was established by the Law Society, Bar Council, Institute of Legal Executives and Advice Services Alliance. The Foundation is independent of Government and partners with a network of seven regional legal support trusts, ensuring funds can be distributed where needed most throughout England and Wales. Using funds raised by lawyers, the Foundation provides grants to pro bono charities, Law Centres, Citizens' Advice Bureaux and other advice agencies. The aim is to support the provision of free legal assistance to members of the public in poverty but not eligible for legal aid.

All public services are facing an uphill struggle over the next couple of years. Central government and local authority funding for public services will dramatically reduce.

We already know that legal aid for people facing legal problems with housing, benefits, employment or community care may be cut and those who cannot afford to pay for advice are going to find it very difficult to seek free legal help.

Law Centres and similar specialist legal help agencies which traditionally have provided help to those in need for free, will struggle to survive at all without additional charitable help.

The Foundation is asking the legal profession to help to alleviate the problems and avert disaster caused by the proposed cuts by ensuring any monies which remain unclaimed by clients are paid to the Foundation.

The donation of dormant funds can produce a significant resource during this very difficult time. It may appear that transferring a few amounts of less than £50 would make little difference. However there are a very large number of those amounts sitting in client accounts across the country. If most of those are processed and donated to the Foundation it will produce a substantial cumulative amount and we will be able to target the consequent large amounts to where they will do the most good.

Using the Foundation's in-depth knowledge of the free legal advice sector we target the funds to save the best legal advice providers. We will ensure that they remain viable and develop the most efficient systems and procedures to emerge from the crisis as stronger, if leaner, organisations providing the best possible service to the poorest and most disadvantaged people.

PO Box 64162, London WC1A 9AN
www.accessjusticefoundation.org.uk
clientbalances@atjf.org.uk

Registered charity no. 1126147
Company limited by guarantee no. 6714178
Registered office: 20-22 Bedford Row, London WC1R 4JS



www.ATJF.org.uk/clientbalances
email: clientbalances@ATJF.org.uk