



THE LAW SOCIETY
OF NEW SOUTH WALES

EXTERNAL EXAMINER'S REPORT 2020

INSTRUCTIONS TO EXTERNAL EXAMINERS

1. A Law Practice Confirmation and Statement of Trust Money is required to be completed online by each law practice that operated in New South Wales during the period 1 April 2019 to 31 March 2020.
2. The due date for completed reports to be submitted online is 31 May 2020.
3. In relation to the calculation of Statutory Deposit, the Examiner is required to check that the quarterly calculations have been completed by the law practice. The Examiner is not required to calculate the amount held in the Statutory Deposit account but is to confirm that the practitioner is aware of their obligation.
4. Part A of the Law Practice Confirmation and Statement of Trust Money is to be completed if the law practice did not receive trust money.
5. Part A of the Law Practice Confirmation and Statement of Trust Money is to be completed if the law practice only:
 - Received or held trust money Subject to a Specific Power pursuant to the PEXA Settlement Scheme;
 - Received or held trust money Subject to a Written Direction;
 - Received or held Transit Money.
6. If the principal of the law practice confirms that trust money (other than PEXA power money, written direction money or transit money) was received or held during the period then Parts A and B of the Law Practice Confirmation and Statement of Trust Money are completed. The law practice then notifies the External Examiner that the statement has been completed and the records are available for examination.
7. All External Examiners Reports incorporating the Law Practice Confirmation and Statement of Trust Money are required to be lodged online via the Law Society of New South Wales website. Emails are sent to External Examiners and law practices providing information on the online lodgement process.
8. The review period is 1 April 2019 to 31 March 2020. The applicable legislation for trust money and trust records for the period of this review is the Legal Profession Uniform Law (NSW) 2014, Legal Profession Uniform General Rules (2015). The Legal Profession Uniform Law Application Act 2014 (NSW) and Legal Profession Uniform Law Application Regulation 2015 (NSW) is also applicable in regard to the requirement to maintain a statutory deposit and the calculation of the amount to be held on deposit.
9. On appointment as an External Examiner ("Examiner") to a law practice, the Examiner should remind the law practice of its obligation to notify the Law Society in writing of the

appointment. A form – [Notification of Appointment or Cessation of External Examiner](#) is available on the Law Society website. If an Examiner is appointed to replace an existing Examiner, the same form must also be completed notifying the Law Society of the cessation of an Examiner.

10. Rule 66 of the Legal Profession Uniform General Rules 2015 requires that for termination of an Examiner the law practice must obtain the prior approval of the designated local regulatory authority. A form is available on the Law Society [website](#). An Examiner may notify the law practice that the Examiner does not wish to continue to be the appointed Examiner for the law practice and in these situations the law practice may replace the Examiner without the prior approval of the designated local regulatory authority. Completion of the Notification of Appointment or Cessation of External Examiner form will suffice.
11. The Examiner is required to verify the information recorded in the Law Practice Confirmation and Statement of Trust Money. If the Examiner notes that there has been an incorrect response provided by the law practice the information can be amended by the law practice up to the time that the Examiner locks the document. However, the Examiner may unlock the Law Practice Confirmation and Statement of Trust Money to enable corrections to parts A & B.
12. The Examiner is required as part of the external examination of the records to certify that the information entered on Part B of the Law Practice Confirmation and Statement of Trust Money is correct. The completed form comprising Parts A and B is submitted online by the Examiner as Schedule 2 to the External Examiner's Report.
13. It is necessary for Examiners to conduct appropriate examination, sampling techniques and enquiries to form an opinion as to whether the trust records have been properly kept in accordance the Legal Profession Uniform Law (NSW) 2014 and Legal Profession Uniform General Rules 2015 for the period 1 April 2019 to 31 March 2020. Examiners must use their own judgment, from the examination of trust records, to form an opinion. The Law Society as the designated local regulatory authority will not offer advice as to whether an issue in the records warrants a breach of the legislation.
14. An [External Examiner's Checklist](#) is available to guide Examiners through their examination of the various forms of trust records maintained by the law practice and to assist in the assessment of compliance with the Legal Profession Uniform General Rules 2015. The Checklist is available at the Law Society website.

It is suggested that the Examiner utilise the Checklist as a guide to conduct the examination. A copy of the External Examiners Report should be provided to the law practice.

15. The Examiner should retain the completed Checklist (if used) or other review documentation, together with a copy of the completed External Examiners Report, as part of the working papers.
16. A [listing of Authorised ADI's and other ADI's](#) is available on the Law Society together with the [Examined Software listing](#).
17. The decision as to whether or not paid cheques need to be sighted is left to the discretion of the Examiner. The Examiner is required to vouch a number of payment transactions to the source records maintained by the law practice. The method and number of transactions selected is determined by each Examiner. If the Examiner is satisfied that the source records substantiate the payment transactions then the

Examiner may determine that the sighting of the paid cheques is not required. Examiners are reminded that provided the request is made in the appropriate form pursuant to the Legal Profession Uniform Law (NSW) 2014 then there are no costs charged to the Examiner or the law practice.

18. As noted above, the External Examiner's Report is required to be lodged by 31 May 2020. If the External Examiner's Report is delayed as a result of an Authorised ADI's delay in providing information, Examiners are requested to lodge the report online with a note in paragraph 7 of the Report advising that the Examiner is awaiting information from the Authorised ADI. It is imperative that the Examiner notifies the Manager, Trust Accounts Department as soon as possible after receipt of the information from the Authorised ADI advising that satisfactory information has been received and that no further action is required by the Law Society.
19. Additional information which may be helpful to Examiners, including a document titled [External Examiner's Update](#) can be obtained from the Law Society website.

Jim Sofiak
Chief Trust Account Investigator