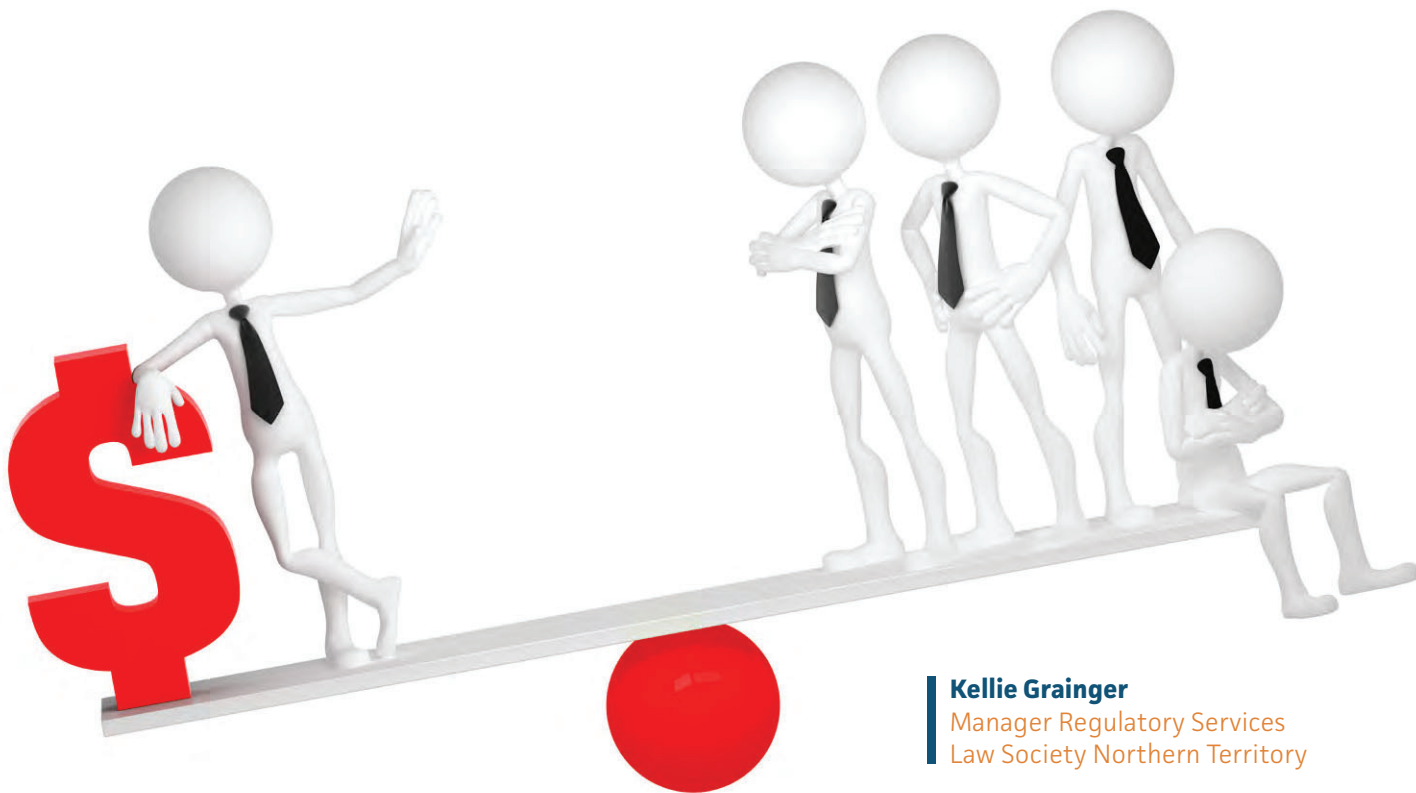


# Unclaimed trust monies



**Kellie Grainger**

Manager Regulatory Services  
Law Society Northern Territory

With the end of the trust account year and the annual audit approaching now is a great time for law practices to review their trust account and make sure they have dealt with any unclaimed trust monies sitting idly in trust.

## What is unclaimed trust money?

The *Legal Profession Act* (LPA) defines unclaimed trust monies (UTM) at s 259(2) an amount held for at least two years and during that period no knowledge of the existence or address for the person on behalf of whom the money is held, or alternatively where the person has refused to accept payment.

## What do I do once I identify UTM?

The LPA requires a law practice to pay UTM to the Fidelity Fund. This process is started by completing the online notification on the Society's website. It is called *Application to submit unclaimed trust money* and can be found in the 'Ad hoc' section on the Trust Account Notifications page.<sup>1</sup> When completing this online form you need to provide details of at least four means by which you've attempted to locate or make contact with your client—these include letters, telephone calls, electoral roll searches, internet searches, emails, ASIC searches or contact with the last known employer.

Once you've submitted the online notification the Society will review the information provided to determine if the funds can be accepted as UTM. You may be contacted for further information or to discuss the attempts to contact or locate the person entitled to the funds. You will be advised by email once the Society is satisfied the funds can be accepted as UTM and provided with details to pay the money to the Fidelity Fund.

### Prevention is better than a cure

Law practices should be alert to stale balances. Efforts to locate a client will generally be more successful close to the time of the file being closed, compared with two years down the track. There are some simple techniques that law practices can utilise to minimise the likelihood of being left with stale balances and having to deal with an application to pay UTM to the Fidelity Fund.

- Principals should be reviewing their list of ledger balances each month—if it's evident that funds have been in trust for some time then enquiries can be made to find out if it's still there for a reason or if the matter is ended and steps should be taken to disburse the funds.
- Part of the file closure process should include a review of any outstanding trust balance.

- Make sure your bookkeeping staff are aware of the requirements around stale balances and train them to proactively manage outstanding trust ledger balances.
- When disbursing the balance of trust monies wherever possible have the client provide bank account details. This can be done as part of any written authority for the disbursement of trust monies. If they provide these details you can pay the funds directly to their account—either via an EFT if your trust account is set up for this or by depositing a trust account cheque directly into to their bank account. This option avoids relying on the client to bank the cheque which in this day and age of electronic banking is a nuisance for some clients and not a priority if it's for a less than substantial amount.

<sup>1</sup> To access this online notification go to [www.lawsocietynt.asn.au](http://www.lawsocietynt.asn.au), then select 'For the Profession'; 'Trust Accounts', 'Notifications'

