QLD LEGAL FINANCE

QUICK ANSWER · TRUST ACCOUNTING

A trust cheque has been outstanding for months — *what should you do?*

Chasing it, stopping it, reissuing it — and the point at which it stops being cheque administration and becomes a statutory obligation.

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Issuing a trust cheque does not complete the practice's obligation to account for the money.

If the cheque remains unpresented, the funds have not actually reached the beneficiary. The item remains part of the trust reconciliation and should be actively reviewed rather than allowed to age indefinitely.

Queensland Law Society says that generally no trust cheque should remain outstanding for more than three months without investigation and communication with the payee.

> **QLF PERSPECTIVE**
>
> An old unpresented cheque is not just a reconciliation item. It is evidence that money the practice intended to pay has still not reached its destination.

1. Identify the cheque from the monthly reconciliation

The monthly approved ADI reconciliation must record unpresented trust cheques, including the cheque number, the amount and the date of issue.

That means ageing should be visible as part of the normal month-end process.

> **GOOD CONTROL**
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> The reconciliation should make it obvious which cheques are new and which have been carried forward for multiple months.

2. Investigate once the item stops looking commercially current

QLS says the practice should examine outstanding cheques to determine whether they remain commercially current.

As a practical rule, once a cheque has been outstanding for an extended period, review:

- the date it was issued;
- the payee;
- the purpose of the payment;
- whether the payee received the cheque;
- whether the cheque was lost, returned or never delivered;
- whether the payee details remain current;
- whether the underlying entitlement is unchanged.

> **DIRECTOR QUESTION**
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> Why is this cheque still outstanding, and who has contacted the payee?

3. Three months should trigger active follow-up

QLS states that, generally, no trust cheque should be allowed to remain outstanding for more than three months without investigation and communication with the payee.

The point is not that every cheque automatically becomes invalid at three months. It is that an unexplained item should not continue to roll through the reconciliation without action.

> **RED FLAG**
> The same cheque appears on six consecutive reconciliations with the same explanation: 'still outstanding'.

4. If replacement is required, stop the original cheque first

Where necessary, QLS says payment should be stopped on the unpresented cheque before a replacement trust cheque is issued.

The replacement should only be issued after confirmation from the approved ADI that the stop-payment notice has been received.

That sequence matters because otherwise the practice risks both the original and replacement cheque being presented.

> **GOOD CONTROL**
> Stop payment → bank confirmation → reverse or update the trust records appropriately → issue replacement.

5. Preserve the original transaction trail

Replacing a cheque should not erase the history of the first payment attempt.

The file should retain:

- the original cheque details;
- the reason it remained unpresented;
- contact with the payee;
- the stop-payment request;
- the bank confirmation;
- the accounting reversal or adjustment;
- the replacement cheque details.

> **QLF PERSPECTIVE**
> A reviewer should be able to see the entire sequence without having to infer why cheque number one disappeared and cheque number two appeared.

6. A stale cheque needs a different level of attention

QLS describes a cheque as stale when it is older than 15 months from the date of issue.

QLS says stale cheques should no longer be processed through the approved ADI system, subject to the particular clearance arrangements of the practice's bank.

Before issuing a replacement, a stop-payment notice must be issued because banks have, on occasion, paid stale cheques.

> **IMPORTANT**
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> Do not assume age alone makes the original cheque incapable of being paid. Follow the approved ADI's process and obtain confirmation of the stop payment.

7. Do not confuse cancelling the cheque with resolving the money

If the original cheque is stopped or reversed, the underlying trust money still belongs to the person entitled to it.

The practice must still determine how the money should be paid or otherwise dealt with.

If the beneficiary cannot be located or entitlement has become unclear, the issue moves beyond cheque administration and should be dealt with under the applicable trust-money requirements.

> **RED FLAG**
>
> The cheque is cancelled and the balance is left sitting indefinitely with no further action.

The endpoint: the return to the Public Trustee

There is a statutory destination for trust money the practice cannot return, and it carries dates rather than judgement. Under section 258(1)(c) and section 713 of the Act, if on **1 April** in any year the practice holds trust money for a person who has been absolutely entitled to it for the preceding twelve months and who is not known to, or cannot be found by, the practice — or where the practice has been unable for two years to determine who is entitled and considers proceedings would be needed to decide it — the practice must lodge a return with the Public Trustee by **1 June** in that year.

The return is signed by a principal or legal practitioner director and sets out the money held, the person it is held for, any lien the practice claims and why it is still held. The maximum penalty is 50 penalty units. The Public Trustee may apply to the Supreme Court for a transfer order, and money transferred goes to the unclaimed moneys fund under the *Public Trustee Act 1978*.

TWO DATES, NOT ONE

The test is applied at 1 April; the return is due by 1 June. A balance that has been unreturnable for a year is not merely untidy — it may already sit inside a statutory timetable that closes in the same weeks as the external examination.

The outstanding-cheque control sequence

STEP	CONTROL
☐ 1. Identify	Age unpresented cheques through the monthly reconciliation
☐ 2. Investigate	Determine why the cheque has not been negotiated
☐ 3. Contact	Communicate with the payee once the item is no longer commercially current
☐ 4. Stop	If replacement is needed, issue a stop-payment instruction
☐ 5. Confirm	Obtain confirmation from the approved ADI before reissuing
☐ 6. Preserve	Keep the original and replacement transaction history
☐ 7. Resolve	Ensure the beneficiary ultimately receives or is otherwise properly accounted for the money

CHEQUES ARE BEING WITHDRAWN

Reissuing a trust cheque is the usual remedy today, but it has an expiry date. Under Australia's Cheques Transition Plan, cheque *issuance* ceases by **30 June 2028** and acceptance ceases on **30 September 2029**, and individual banks are withdrawing cheque facilities well before then. A practice still relying on trust cheques should be planning the move to electronic payment now rather than discovering the deadline through its bank.

What should the principal see at month end?

Aged unpresented cheques should be reported as exceptions, not treated as routine reconciliation noise.

- cheque number;
- date of issue;
- amount;
- payee;
- age;
- last contact with payee;
- next action;
- responsible person.

DIRECTOR QUESTION

What is the oldest unpresented cheque, and what is preventing closure?

Where QLD Legal Finance fits

QLD Legal Finance can monitor unpresented cheques through the monthly trust reconciliation, flag aged items, maintain the investigation record and prepare the accounting entries associated with stop payments, reversals and replacement cheques.

The objective is that an outstanding cheque never becomes an old reconciliation item that everyone has stopped noticing.

Important information

This guide is general information only and is not legal advice.

Law practices should refer to the Legal Profession Act 2007 (Qld), the Legal Profession Regulation 2017 (Qld), current Queensland Law Society guidance and their approved ADI's cheque-clearance and stop-payment procedures.

Queensland Law Society describes a cheque older than 15 months as stale in its current Trust Accounting Guide, but practices should also follow their approved ADI's specific clearance arrangements.

The control sequence in this guide is a QLD Legal Finance operational framework. It is not a separate statutory checklist issued by Queensland Law Society.

QLD Legal Finance supports Queensland law practices with trust accounting, financial control and advisory services. It is not affiliated with or endorsed by Queensland Law Society.

Source basis

Prepared by reference to Queensland Law Society, Trust Accounting Guide — Trust Money and Trust Accounts, Version 12, April 2024, including the sections dealing with unpresented and stale trust cheques.

WHERE THIS CAME FROM

This guide is part of the QLD Legal Finance resource library — practical material written for the people who run Queensland law practices, not for other accountants. If something here raises a question about your own firm, write to **enquiries@qldlf.com.au** or call **07 3261 2833**. A director will answer personally.

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