QLD LEGAL FINANCE

QUICK ANSWER · TRUST ACCOUNTING

The trust ledger is in debit — *what now?*

Why a debit balance is a deficiency rather than a bookkeeping untidiness, what has to happen in the first hour, and who has to be told.

VERSION 2.0 · SEPTEMBER 2026

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A debit trust ledger is not an item to leave for month end.

An individual client trust ledger must never carry a debit balance, and the reason is not housekeeping. A debit ledger means the practice has paid out more than that client had in trust — which is a deficiency in a trust ledger account. Section 259 of the Act makes it an offence for an Australian legal practitioner, without reasonable excuse, to cause a deficiency in any trust account or trust ledger account, or a failure to pay or deliver any trust money. The maximum penalty is 200 penalty units. Funds must be deposited immediately for that individual ledger to restore it to a nil or credit balance.

The accounting correction is only the first step. The practice also needs to understand what caused the debit, whether a trust deficiency or other irregularity occurred, what reporting obligation arises and what control failed.

> **QLF PERSPECTIVE**
> The right response is restore, investigate, report where required, and fix the control. Simply making the ledger positive again does not close the issue.

1. Treat the debit as an immediate exception

Do not wait for the monthly reconciliation or external examination.

As soon as the debit is identified:

- stop any further payment activity affecting the ledger until the position is understood;
- preserve the transaction records and bank evidence;
- escalate the matter to the principal or other responsible legal practitioner;
- restore the ledger to a nil or credit balance immediately.

> **RED FLAG**
> The ledger is allowed to remain overdrawn because expected client funds are due to arrive later that day.

2. Establish whether the debit is a posting error or a real deficiency

A debit balance can arise for different reasons. The response should begin by reconstructing the transaction sequence.

Common causes may include:

- payment from the wrong client ledger;
- payment released before incoming funds were cleared or recorded;
- incorrect payment amount;
- receipt posted to the wrong matter;
- trust-to-office transfer made without sufficient available funds;

- journal posted incorrectly;
- bank reversal or dishonour affecting money previously treated as available.

The practice should not assume that correcting a coding error automatically resolves the underlying trust issue.

> **CONTROL QUESTION**
> Did the bank account actually pay out more money than was held for that client, or is the debit solely the result of an accounting entry that misstates the underlying transaction?

3. Restore the individual ledger immediately

Where an individual trust ledger records a debit balance, the practice must immediately deposit funds to the trust account for that individual ledger to restore it to nil or credit. Rectification is not contingent on working out whose error it was.

The restoration should itself be fully documented, including:

- the amount restored;
- the date;
- the ledger affected;
- the reason for the restoration;
- the source of the corrective entry or deposit;
- the person approving the response.

> **IMPORTANT**
> Do not cure one client's debit by moving money from another client's trust ledger.

4. Preserve the history — do not make the debit disappear

The trust records should continue to show what occurred.

Regulation 31 of the Legal Profession Regulation 2017 (Qld) puts the duty on the practice and puts it the other way round: the practice must ensure its computerised accounting system is *not capable* of accepting a transaction that would result in a debit balance on a trust ledger account, unless a contemporaneous record of the transaction is made in a way that allows a separate chronological report of those occurrences to be produced. A system that quietly permits debit postings without that record does not comply, however tidy the ledgers look.

The objective is not to tidy the ledger by deleting or overwriting history. The practice should be able to show:

- the transaction that caused the debit;
- when it was identified;

- how it was corrected;
- what the final position became.

> **QLF PERSPECTIVE**
> A clean current balance is useful. A preserved history is essential.

5. Consider the section 260 notification obligation immediately

Section 260 of the Act requires written notice to the Society as soon as practicable after a legal practitioner associate of the practice becomes aware of an irregularity in any of the practice's trust accounts or trust ledger accounts. Maximum penalty 50 penalty units. There is a second limb that is easy to miss: under section 260(2), an Australian legal practitioner who is *not* an associate of the practice, but who believes on reasonable grounds that there is an irregularity in connection with the receipt, recording or disbursement of trust money received by that practice, must also give written notice as soon as practicable after forming the belief. That trigger is belief on reasonable grounds, which fires earlier than awareness.

QLS's section 260 guidance expressly includes an error in a trust ledger and a deficiency in a trust ledger or trust bank account as examples of irregularities.

Accordingly, the practice should not treat notification as something to decide at the end of the investigation. The responsible legal practitioner should consider and address the reporting obligation promptly.

> **RED FLAG**
> Waiting until the external examiner finds the debit before deciding whether the Society should have been notified.

6. Record the facts, not just the correction

A proper incident record should explain:

- when the irregularity occurred;
- when the practice became aware of it;
- the client and matter affected;
- the amount;
- how the debit arose;
- whether trust money was actually deficient;
- what was done to restore the position;
- whether QLS was notified and when;
- what process or access change followed.

QLS publishes an online S260 Notification form, which is the practical route and accepts file uploads. It asks for details of the irregularity and the steps taken or intended to rectify it.

> **GOOD CONTROL**
> Someone reviewing the incident months later should be able to understand both the event and the response without relying on memory.

7. Fix the control that allowed it to happen

Once the immediate position is restored and the reporting issue addressed, the practice should identify the control failure.

Depending on the cause, that may mean:

- requiring a ledger-balance check before every payment;
- tightening cleared-funds verification;
- separating payment preparation from release;
- changing system permissions;
- improving receipt allocation controls;
- introducing exception alerts for debit ledgers;
- reviewing trust-to-office payment procedures.

> **DIRECTOR QUESTION**
> What will be different next time the same transaction type occurs?

The debit-ledger response sequence

STEP	RESPONSE
☐ 1. Stop	Prevent further transactions that may worsen the position
☐ 2. Escalate	Bring the issue immediately to the responsible principal/practitioner
☐ 3. Restore	Return the affected ledger to nil or credit immediately
☐ 4. Reconstruct	Establish exactly what transaction caused the debit
☐ 5. Preserve	Keep the original transaction and correction history
☐ 6. Report	Address the section 260 notification obligation as soon as practicable
☐ 7. Prevent recurrence	Change the process, access or control that failed

What should the principal ask?

- How did this ledger become overdrawn?
- Was there an actual deficiency in trust money?
- Has the ledger been restored immediately?
- Has the full transaction history been preserved?
- Has the section 260 reporting obligation been addressed?
- Could another client or matter be affected by the same process failure?
- What control has changed as a result?

Where QLD Legal Finance fits

QLD Legal Finance can identify debit-ledger exceptions, reconstruct the accounting trail, quantify the affected transactions, prepare the corrective accounting records and support the practice in documenting the incident and control response.

The decision about legal reporting obligations and any notification to Queensland Law Society remains the responsibility of the law practice and its legal practitioners.

The objective is not merely to restore the number. It is to restore control and leave a complete record of what happened.

Important information

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

Section 259 of the Act creates an offence of causing a deficiency in a trust account or trust ledger account without reasonable excuse, with a maximum penalty of 200 penalty units; section 260 imposes the notification duty. Law practices should refer to both sections of the Legal Profession Act 2007 (Qld), the Legal Profession Regulation 2017 (Qld) and current Queensland Law Society guidance when a debit trust ledger, deficiency or other irregularity is identified.

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

Where a debit ledger or suspected deficiency is identified, the responsible legal practitioner should promptly determine and satisfy the practice's legal and reporting obligations.

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.

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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