

Failure to Account (Rule 3.3(b))

5 July 2021

Status

This guidance is to help you understand how we make decisions on applications received for payments out of the SRA Compensation Fund (the Fund).

Who is this guidance for?

This guidance is for all applicants seeking a payment from the Fund and for those assisting applicants with their application.

Purpose of this guidance

We can consider a payment where a loss has been caused by a failure to account for money which someone we regulate received. This guidance explains what constitutes a failure to account when considering applications for payments from the Fund.

Is there a failure to account?

For an application to fall within this category, we need to establish that the person or firm we regulate has failed to account for money belonging to you. You will need to show that the regulated person was holding money on your behalf, which has not been used for the intended purpose.

Examples where the applicant is the client of the regulated person include not paying the proceeds from a house sale to the seller or not paying damages won in litigation. Examples where the applicant is not the client include not paying the beneficiaries of an estate or not paying the applicant their share of sale proceeds where the firm acts for the applicant's spouse in divorce proceedings.

A failure to account could also include where a client has paid for work which has not been completed. A common example of this is not dealing with Land Registry formalities after a property purchase.

Our Rules also allow a person who is not a client of the regulated person to claim on the basis that there has been a failure to account. This could happen where money should have been used to complete a transaction for their benefit, or to make a settlement or other payment to them.

To show a failure to account, you will need to provide evidence:

- of the transaction being dealt with

- that the regulated person received the money claimed
- that the applicant has suffered a loss as a direct consequence of the regulated person failing to account to them.

Further guidance

Read more information about our Compensation Fund

[<https://www.sra.org.uk/consumers/compensation-fund/>] .

Further help

If you require further assistance, please contact our Contact Centre

[<https://www.sra.org.uk/contactus/>] .