



NOTICE TO LEGAL PRACTITIONERS

16 January 2024

TRUST ACCOUNTS OF LEGAL PRACTITIONERS

Dear Legal Practitioners

Subsections 86(2) and (2) of the Legal Practice Act, No. 28 of 2014 (“the LPA”) require of the legal practitioners who are required to be in possession of a Fidelity Fund Certificate to operate a trust account which must be kept at a bank with which the Legal Practitioners Fidelity Fund has made arrangements as envisaged in subsection 63(1)(g) of the LPA and must deposit therein, as soon as possible after the receipt thereof, money held by the practice on behalf of any person.

In terms of subsection 84(1) of the LPA every attorney or advocate with a trust account who practises for his or her own account either alone or in partnership; or as a director of a practice which is a juristic entity must be in possession of a Fidelity Fund Certificate.

It has come to the attention of the Legal Practice Council that there are trust account legal practitioners who:

- change their trust account details initially furnished with the application for the registration of a law firm without notification to the LPC Provincial Offices;
- open additional trust accounts without notification to the LPC Provincial Offices
- use trust accounts for overdraft facility and debit orders; and
- who practise without a trust account after it has been closed for various reasons by the banks.

The Legal Practitioners are therefore urged to:

- notify the LPC Provincial office of the changes of their trust account details and when additional trust accounts have been opened;
- an overdraft facility, debit orders and any other business transactions are processed through the business banking accounts and that trust accounts are not used for this purpose; and
- not to practise for own account either alone or in partnership; or as a director of a practice which is a juristic entity or as a trust account advocate without a trust account.

The Legal Practitioners who practise for own account either alone or in partnership; or as directors or a practice which is a juristic entity or as trust account advocates would in due course be required to also submit, annually, mandatory declarations of the number of trust accounts as part of trust account audit reports submitted in terms of Rules 54.21 or 54.22 of the Rules made in terms of sections 95(1), 95(3) and 109(2) of the LPA. The mandatory declarations will be implemented with effect from beginning of 2024.

Kind regards,

Legal Practice Council