



**Submission to the Justice Select Committee:
Can ILCA schemes increase access to justice funding without
impacting on the public purse?**

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Executive Summary

Background

1. This submission is a response to the fourth question posed by the Justice Select Committee in their Access to Justice Inquiry terms of reference, namely, “Without impacting the public purse, what potential funding options would increase access to justice? e.g. an access to justice fund levy, conditional fee arrangements, third party funding.”
2. It draws on the findings of a Nuffield Foundation funded research project which is exploring the potential to generate additional funding for the free legal advice sector which is largely acknowledged to be in crisis. In this paper we draw on preliminary data about the potential to introduce an Interest on Lawyers Client Accounts (ILCA) scheme in England and Wales.
3. The basic premise of ILCA schemes is that there is value in gathering together numerous small amounts of interest on client accounts held by lawyers which it is not economical to return to clients. These funds are currently retained by law firms and in periods when interest rates are high can form a significant source of income. ILCA schemes take these funds away from lawyers, pool them to attract higher rates of interest and invested them with a view to fund activities that facilitate access to justice and other public interest initiatives.
4. Seventy-eight ILCA schemes exist across the world and many of them have successfully operated for four decades.
5. This paper reports on the findings of an analysis of:
 - a. Over 214 client interest policies published on the internet by English and Welsh law firms in order to understand how the interest on client accounts with their lawyers generate interest and who benefits from this.
 - b. The characteristics of ILCA schemes from across the world which make use of the client interest to fund access to justice and other public interest initiatives.
6. In the absence of other publicly available data, we argue that the analysis in this document provides us with an evidence base from which to examine current practice and consider alternatives.
7. The paper is in three sections. The first section looks at what currently happens to small amounts of interest which accrue on client funds held by law firms in England and Wales. The second section looks at the characteristics of ILCA schemes across the globe. The third section reflects on the data present and raises a number of issues for further debate.

Part One: What currently happens to interest on lawyers client accounts in England and Wales?

8. Solicitors and licensed conveyancers regularly keep safe relatively small amounts of money for short periods of time in the course of managing transactions for their clients. Client funds of this kind are placed in a general client accounts which, when pooled, hold substantial amounts of money which earns interest. How much money is held by clients and the interest this accrues has not been placed on the public record, though this data is collected by the Solicitors Regulation Authority (SRA).

9. Following a process of de-regulation, law firms have much more discretion than in the past in determining how they manage the interest that accrues in general client accounts. The SRA Account Rules only require that a law firm accounts to clients for a fair sum of interest on money held on their behalf.
10. In order to gauge how what was fair was being interpreted in practice the authors undertook an analysis of 214 client interest policies made available on the internet by a sample of law firms. This demonstrated that clients who deposit small amounts of money with a law firm for short periods of time rarely benefit from the interest that accrues on it. Policies commonly place three hurdles to gaining the interest in the way of clients. These are:
 - a. *Thresholds*: As many firms make clear to clients, the small amount of interest accrued on the money deposited by one client is normally less than the cost of law firms having to calculate and administer the reimbursement. Law firms regularly set a *de minimis* amount below which they will not pay any interest. In our sample these varied from £10-£500.
 - b. *Exclusions*: Firms often exclude certain types of client money from interest rate calculations. While some of these exclusions can be justified others might be harder to justify or for consumers of legal services to understand.
 - c. *Top slicing*: Law firms benefit from the higher rates of interest available on pooled funds. While they might reimburse the client for the interest they could receive by investing their small amount of money elsewhere, they do not always share the uplift in interest acquired on larger pooled funds.
11. As a result of these practices clients rarely receive any interest on funds held in a general client account. Instead this interest is retained by law firms and treated as an income stream. In addition, there is evidence that some firms are investing a portion of funds in general client account in short term liquid investments to generate additional sources of income.
12. There is no doubt that there is significant money to be made from the practice of pooling funds. The Law Society's Financial Benchmarking Survey (2024), which collects financial data from 147 solicitor firms across England and Wales, found that total net income from interest rose over 1,000% to £27.5 million compared to £2.6 million in 2022. In their annual benchmarking survey of law firms Crowe (2024) also found that amongst the 57 law firms that participated in their research 23 generated client account in excess of £1 million, the highest being in excess of £7 million and that 41 firms generated more than £250,000. They also found that approximately 45 firms were generating client account interest in excess of one per cent of their turnover. The SRA has since expressed concern that some law firms are relying too heavily on income from interest to maintain profitability.

Part Two: How do ILCA schemes operate in other jurisdictions

13. Across the world 78 ILCA schemes operate on the basis of diverting large amounts of nominal or short terms funds from solicitors general client accounts and making it available for public purpose and charitable causes. Many of these schemes have been in operation for over four decades and make available large amounts of money for access to justice initiatives. Every State in the US, Canada and Australia have well established schemes and there are also ILCA systems in place in France, South Africa and Namibia.

14. Though a number of schemes allowed lawyers to opt into the ILCA scheme when it was established, the vast majority now make it mandatory for lawyers to re-direct client interest to a foundation set up to collect and distribute ILCA funds.
15. The details of ILCA schemes vary considerably but it is common for law firms to be required to deposit client funds in an authorised bank and for that bank to pass on the interest on client funds to a foundation set up to distribute funds. Variants of these scheme allow banks to retain 40 per cent of the interest before passing it on to the foundation or involve one central bank which collects the funds and gives them to regional foundations to distribute.
16. Foundations running ILCA programmes acquire significant bargaining power by virtue of overseeing large amounts of client interest made up of multiple nominal amounts. ILCA schemes across jurisdictions have drawn attention to the fact that they are able to negotiate more favourable interest rates with banks involved in the scheme. In the US ILCA style schemes have also been successful in negotiating a reduction in service charges such as monthly fees, cheque and deposit fees, wire fees, inactivity fees and overdrafts charges.
17. ILCA schemes fund a range of activities which vary across jurisdiction. These include grants to organisations giving free legal advice, public legal education programmes, open access law libraries, widening participation initiatives for law students, professional development programmes. In some jurisdictions a significant proportion of funds are mandated to be given to, or voluntarily assigned to legal aid programmes. Indeed, it is a major finding of this study that support for legal aid programme is a top priority of many of the schemes examined.
18. The success of ILCA schemes depends on the support of two powerful interests in society, the legal profession and commercial banks. In some jurisdictions such as the US professional bodies have been highly supportive of ILCA schemes and in many jurisdictions professional bodies play a major role in distributing funds.
19. Banks have traditionally had more autonomy as to whether they participate in ILCA schemes and tend to be able to reserve the right to opt in. A failure to take part can involve a loss of revenue but may also involve having to offer more favourable terms and conditions, thus reducing profit margins. ILCA schemes use a variety of mechanisms to try and induce participation such as presenting them with awards, featuring them in their publications, promoting them on social media, marketing them to the legal community.
20. ILCA schemes also pose a number of challenges. The bulk of interest they rely on is generated by property transaction meaning that income can reduce significantly during a property slump. Schemes also flourish when interest rates are high but suffer a corresponding drop in income when they are low. This can create barriers to sustainable funding programmes.
21. In order to manage this problem schemes develop a reserves policy and also retain a portion of income for investment purposes in order to level out fluctuating income streams. Even with these measures in place data generated by the schemes tend to suggest that funds available for distribution fluctuate considerably.

Part Three: Reflections on the data

22. At the heart of debate around ILCA scheme is a political and ethical debate about distributive justice which begs the question of who should benefit from ILCA schemes?
23. At present the consumer of legal services is unlikely to get any benefit for interest accrued on client accounts. While there is variation in professional practice, it is clear that solicitors do stand to benefit from retained funds, top slicing and in some instances from the possibility of using them as an investment opportunity.
24. Banks are also major beneficiaries, aiming to make money from pooled funds whether or not they pass some of the benefit on to solicitors through favourable interest rates. It is significant that debate to date has sometimes been critical of legal practitioners accruing benefit from client interest but rarely critical of the banks that also benefit from these a large accumulated funds.
25. ILCA schemes offer the possibility of re-directing the money made from pooled funds to purposes which serve the public interest and have the potential to significantly benefit the not-for-profit advice sector at no additional cost to the public purse.
26. ILCA schemes also offers the legal profession an opportunity to respond to concerns raised by the Solicitors Regulation Authority (SRA) that some law firms have become overly reliant on client interest as a source of income in ways that could impact on public confidence in the profession.

PART ONE: English and Welsh funds for managing client money

Introduction

1. This submission is a response to the fourth question posed by the Justice Select Committee in their Access to Justice Inquiry terms of reference which asks whether there are potential funding options which would increase access to justice without cost to the public purse. It draws on the findings of a two-year Nuffield Foundation funded research project which began in June 2025.ⁱ This project is exploring the potential of six funding schemes to generate additional funding and a sustainable future for the free legal advice sector made up of legal aid practices, law centres and advice centres. The six schemes being examined are:
 - a. Residual funds from collective action cases;
 - b. Interest on Lawyer Trust Accounts (IOLTA);
 - c. Legal expenses insurance;
 - d. Levies on large commercial law firms;
 - e. Apprenticeship levy transfers; and
 - f. Re-direction of dormant client monies.
2. In this paper we draw on preliminary data gathered on the operation of what the Ministry of Justice is now referring to as Interest on Lawyer Client Accounts (ILCA). A number of these schemes exist around the globe, have operated for many decades, and make substantial financial contributions to legal aid, public legal education and supporting the profession. Each of these schemes operates on the basis that interest generated from small amounts of client money held by law firms, which it is uneconomical to return to the client, can form significant amounts of money for access to justice initiatives when pooled and placed in higher interest generating accounts or invested. The funds generated are far from insubstantial. Reflecting on the success of US IOLTA schemes the American Bar Association has claimed:

Since 1981, IOLTA has generated over \$4 billion in revenue throughout the United States. In 2020, IOLTA grants nationwide totalled over \$175 million. IOLTA is a significant source of funding for programs that provide civil legal services to those living in poverty, with over 90 percent of grants awarded by IOLTA programs (\$168 million in 2020) supporting legal aid offices and pro bono programs.ⁱⁱ

3. Before discussing the detail of the different international schemes we examine the regulatory framework that law firms in England and Wales are required to comply with in managing client money and what can be discerned about current practices in law firms from the limited information which is publicly available. There is no doubt that there is significant money generated by client interest, though as we argue it seems likely that much of this is currently retained by law firms. Though it does not specify how the money was made, the Law Society's Financial Benchmarking Survey (2024), which collects financial data from 147 solicitor firms across England and Wales, found that total net income from interest rose over 1,000% to £27.5 million compared to £2.6 million in 2022.ⁱⁱⁱ In their annual benchmarking survey of law firms Crowe (2024) found that amongst the 57 law firms that participated in their research 23 generated client account in excess of £1 million, the highest being in excess of £7 million and that 41 firms generated more than £250,000.^{iv} They also found that approximately 45 firms were

generating client account interest in excess of one per cent of their turnover.^v The Solicitors Regulation Authority (SRA) has recently argued that some law firms have become overly reliant on client interest as a source of income. As will be seen, ILCA schemes offer the possibility of re-directing the money made from pooled funds to purposes which serve the public interest and can significantly benefit the not-for-profit advice sector.

What currently happens to interest on general client accounts held by law firms in England and Wales?

4. In the normal course of their business solicitors hold client money in banks and building societies for transactional convenience. The monies can be held for a range of purposes including: funds for land registry fees during the conveyance of a property; court fees during a contested matter; payment of fees upfront to reduce the risks of clients defaulting on payment; or sums relating to out of court settlements. Allowing solicitors to hold these monies promotes greater efficiency for the client because it means that solicitors have funds to hand to pay for normal expenditures associated with transactions (Law Society, 2024). How much money is held by clients and the interest this accrues has not been placed on the public record, though this data is collected by the SRA.
5. Current banking practice in England and Wales allows solicitors firms to open one of two different accounts for the safekeeping of client funds.^{vi} The first of these is a designated or segregated client account which holds the funds of a particular client whose name or identity forms part of its title. These accounts are generally used where the funds deposited are very large or the matter is likely to be a drawn out for a long period of time. Designated accounts appear to have become less common outside of large-scale commercial law firms, not least because the costs of set up and maintenance tend to increase transaction costs. The payment of interest on these accounts is however relatively straightforward. Since the monies held in a designated client account are seen as belonging to the client interest accrued on the account is generally paid to the client in full. The second type of account is 'general client account.' Solicitors use these accounts, opened in the firm's name, to pool numerous small amounts of client monies held for a short time. The fact that these accounts are opened in the law firms name means the interest accrues to the firm, and as we will go on to explain, is paid out to clients at the discretion of the firm (Kempton and King, 2024).

What rules regulate how client funds are managed?

6. The SRA's Code of Conduct for law firms requires that practitioners do not abuse their position by taking unfair advantage of clients (para 1.2), and that they properly account to them for any financial benefits they receive as a result of being instructed (para 5.1).^{vii} Client accounts are also regulated by the SRA Accounts Rules 2019, the most relevant of which are that:
 - client money must be available to the client on demand unless alternative arrangements have been agreed (rule 2.4);
 - client funds should be returned promptly when the solicitors no longer have a reason to retain them (rule 2.5);
 - withdrawals of client money from the client account must be for the purposes for which they are held (rule 5);

- client accounts should be kept separate from the firm's 'office' account (rule 4.1); and
- that firms should bill the client before they transfer monies from the client account to an office account (4.3).

Most significantly for present purposes rule 7.1 of the SRA Account Rules requires that the firm should 'account to clients... for a fair sum of interest on any client money held [by a firm] on their behalf.'

7. The question of what constitutes a fair sum of interest has been the subject of considerable debate since the introduction of the rules. Significantly, earlier versions of the Accounts rules provided more prescriptive guidance on when interest was to be paid and how it was to be calculated (Kempton and King, 2024), but in the interests of simplifying what was considered to be a complex and lengthy set of regulations the 2019 guidance leaves much to the discretion and judgement of individual firms (McCluskey, 2024). To date hardly any research has been undertaken to date about how solicitor firms deal with interest accumulated on general client accounts. The next section of this paper considers how firms with published client interest policies have decided how to calculate what is a fair sum for reimbursement to the client.

How do solicitors manage client interest?

8. In order to discover more about how law firms interpret their obligation to account to clients for a fair sum of interest on the money held for them by a law firm, we undertook an analysis of 214 client interest policies published by law firms on the internet.^{viii} Our analysis of the policies demonstrated that while there were several similarities between them,^{ix} the overall impression was of significant variation in terms of the length of the policy, the sorts of funds treated as exempt from interest generation, the threshold at which client funds are treated as capable of generating interest and how client interest was calculated.
9. In the sections which follow we examine the details of the 214 policies analysed in more depth. We begin by looking at two particular thresholds that clients have to meet before the funds they have deposited are eligible for interest. We go on to consider how interest is calculated if clients get over these thresholds and the extent to which this is apportioned between solicitor and client. The section concludes by looking at the ways in which banks and some law firms use interest accrued to generate additional income from which only the firm benefits.
10. The available evidence suggests that in practice clients rarely get any of the interest generated by pooled general client accounts. HMRC Guidance asserts that where a client's money is held in a general account by a solicitor it is usual for the practice to keep any interest earned from the bank and that it is only 'occasionally' passed on to the client.^x Financial advisers Gemstone (2024) have also argued that it is uncommon for law firms to remunerate clients for interest accrued on general client funds. Our content analysis sought to test the validity of these claims and assess how non-payment is justified by law firms.

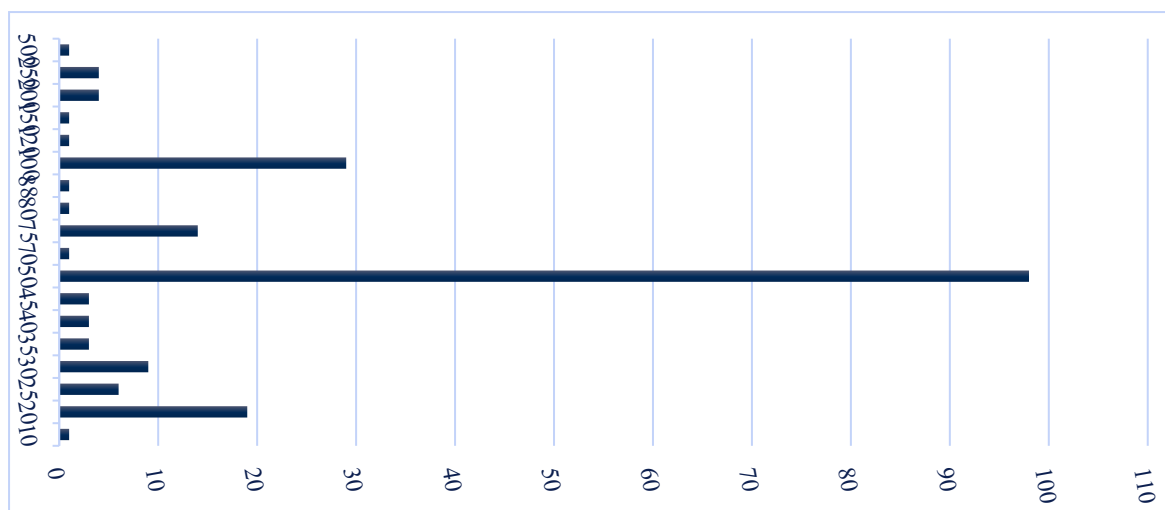


Figure One: Three steps towards acquisition of interest by client

11. As shown in Figure One, our analysis suggests that there are three tests that clients have to pass before interest can be paid to them. These are: the setting of a threshold below which no interest is paid; the exclusion of certain types of moneys from interest calculations; and the top slicing of interest accrued so that the law firm shares the available interest with the client. Together these explain why clients rarely benefit from the interest accrued on general pooled accounts. In the sections below we consider each of these tests in turn.

(a) *Has the interest accrued exceeded the de minimis threshold?*

12. The costs associated with calculating and paying interest earned on client's portion of pooled funds can exceed the interest which has been accumulated. For this reason, law firms frequently include a *de minimis* amount in their client interest policies or terms and conditions. This acts as a threshold which the interest accumulated has to reach before any interest is paid to an individual client. Of the 214 firms in our sample, 93% (199) specified a *de minimis* threshold that client interest had to reach before any interest was shared with the client. Chart one shows the different *de minimis* amounts specified in the policies.



*Chart One: To show de minimis amounts included in client interest policies by occurrence
(n=199)*

13. It can be seen from the chart that there was considerable variation in practice with *de minimis* amounts ranging from £10-500. Fifty pounds is the amount that appears most frequently in policies (49%), with the average amount specified being £58. Significantly, while smaller regional firms were more likely to set a *de minimis* threshold of £100 or

lower, it did not always follow that the size of the firm determined the threshold set. By way of example, global law firms Slaughter and May set the *de minimis* figure at £20 and Simmons and Simmons a rate of £25, while a regional Shrewsbury based firm set their threshold at £250.

14. The setting of a *de minimis* threshold was regularly justified in policies by reference to the fact that law firms incur costs in having general client accounts. Indeed, the SRA (2024) has acknowledged that when interest rates are low the amount earned may only be enough to pay for the costs incurred in managing an account.^{xi} The sort of costs anticipated by firms include such things as staff time expended in bank reconciliation, arranging transactions, investigating discrepancies, calculating interest, moving money between a client account and office account, and auditing.
15. The issue of which costs it is legitimate to offset against interest earned is not always as straightforward as might at first be assumed. Financial Management Firm, Gemstone (2024), has argued that the SRA assertion that costs often wipe out the benefit of accrued interest is incorrect now and has historically been so:

Traditionally, banks have refrained from imposing charges for the operation of client accounts, thereby negating the concept of transaction fees. While CHAPS fees are indeed applicable, they are typically charged separately. Law firms commonly incorporate these fees into a comprehensive charge, encompassing the CHAPS payment along with a nominal administration fee. (No page number).

16. Other financial accounting specialists have argued that automated interest calculation software has streamlined traditional practices by reducing errors from manual calculation and syncing records with real-time changes in interest rates (Wyles, 2024). These commentaries raise important issues about the extent to which it is correct to assume that the benefit of accrued interest is always offset by costs. Moreover, the SRA (2025) has argued that rather than offsetting these costs against client interest, it would be more transparent to list them as part of the fee owed to the law firm.
17. Regardless of whether offsetting costs against interest is reasonable, it is also clear that getting over the *de minimis* threshold for sums of money commonly placed on account for short periods of time is also challenging. Most firms in our sample that listed their bank (90) named NatWest, HSBC, Lloyds, Barclays or RBS. Using the average rate of interest available from these banks on business accounts in August 2025, we calculated how many days set amounts of money would need to be in a general client account before reaching the *de minimis* amount of £50.

Interest rate	1.10%	1.10%	1.10%	1.10%	1.10%	1.40%
Client money	£5,000	£10,000	£50,000	£100,000	£500,000	£1,000,000
Days on deposit	332	166	33	17	3	1
Interest threshold	£50	£50	£50	£50	£50	£50

*Table One: The number of days it would take for different client funds to reach the *de minimis* threshold by reference to two different interest rates^{xii}*

18. In order to meet the target threshold of £51 on which interest begins to be payable, a client would have to deposit the total amount of client money shown in row two, for the

number of days listed in row three. If we apply these timelines to the sort of transactions most likely to make the largest contributions to an ILCA scheme, namely a domestic property conveyance, shows, it can be seen that these thresholds are unlikely to be met for the majority of transactions. The UK House Price Index for January 2024 found that the average property in the UK valued at £282,000.^{xiii} Based on the average interest rates listed in Table Two a firm would have to retain this purchase money for over 6 days before the £50 interest threshold was reached. But in most conveyancing transactions, a law firm is likely to hold purchase and sale funds for just a few hours or days.

(b) *Is some of the money held on behalf of a client deemed exempt from the accrual of interest?*

19. Even if a client's funds do exceed the *de minimis* threshold, they then face the risk of falling foul of policies relating to exclusions from interest calculations. In addition to *de minimis* clauses, one hundred and twenty-eight policies (60%) in the sample contained 384 exemptions of this kind, with the average being three exclusions per policy. While some categories were common there was considerable variety in the type of circumstances in which money was excluded from calculations.

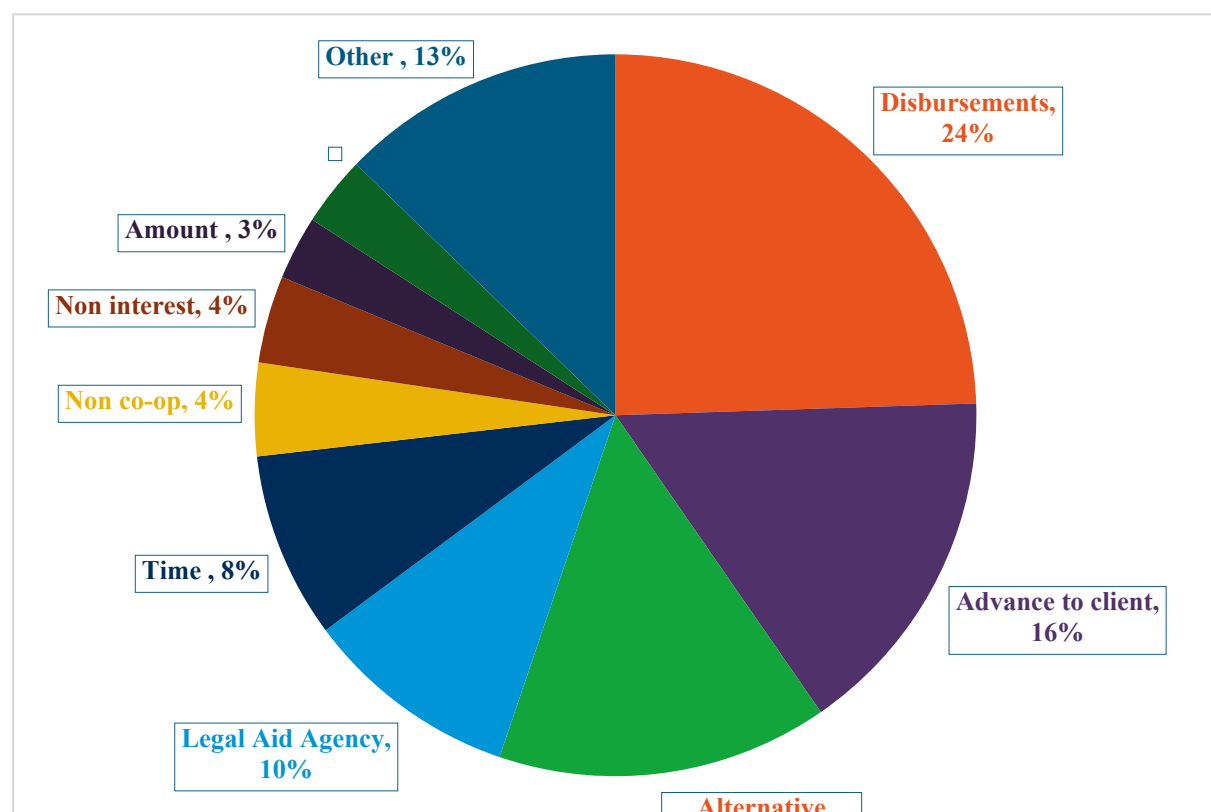


Chart Two: Types of money excluded from the calculation of interest (n=384)

The categories of exclusion clauses which appeared in policies are shown in Chart Two and are worthy of detailed discussion because of their potential to create additional barriers to the payment of client interest and to introduce additional *de minimis* style rules.

20. A detailed examination of these exemptions suggest that many were straightforward and reasonable. This includes instances in which the solicitor and client come to an alternative agreement because the client indicates that they do not wish to obtain interest. This might be for religious grounds or because the client wants to avoid having to declare a small amount of interest on their tax return. In other instances, solicitors make clear that they will not pay interest to the client on an advance from the firm into the general client account to fund something on behalf of the client. A number of firms also specify that they will not pay interest on money received on behalf of clients from the legal Aid Agency, with one justification for this being that it is public funding from which a client should not accrue any additional benefit.^{xiv} Reasonable exclusions included in the 'other' category also include instances in which a client has not co-operated with the law firm by paying their fees or provided their bank account details, and instances in which funds are legitimately held outside of a client account e.g., in a safe.
21. The rationale for other exemptions such as funds relating to disbursements is not as clear. These include such things as registration fees, taxes, court fees, counsel's fees, expert witnesses and payments pursuant to a court order. Where these have been paid by a solicitor on behalf of a client it seems reasonable that the client would not be entitled to any interest, but where these are part of a retainer paid up-front by the client the logic is less clear, and the policies analysed rarely distinguished between these two situations. to produce interest for the client there appears to be no longer reason why the latter should not.
22. In other instances, exemptions appear to be used to impose an additional *de minimis* style hurdle for clients. Thirty-two of the policies analysed required that a client must have had funds in the general client account for a specified *period of time* before their monies are eligible to earn interest, with periods varying from five days to six months. In six other instances policies required that clients have a *minimum amount of money* deposited in the client account before it could attract interest, with sums ranging from £1,000 to £10,000 pounds. Sometimes these two criteria were combined with several firms specifying a combination of the amount deposited and the length of time for which it was deposited. By way of example, Norwich based law firm Dawsons require that unless deposits exceed £1,000, £2,000, £10,000 or £20,000 for eight, four, two or one week(s) respectively, then no interest would be paid. In one instance a clause of this kind excluded interest paid on transactional funds of less than £2.5m held in a client account for less than five working days. These practices frequently mirror those imposed on law firms by banks, but when they operate in conjunction with the sort of *de minimis* clauses discussed in the last section they appear to impose a double *de minimis* hazard.
23. Certain types of financial transaction, most notably those involving property sales, were also exempt for interest calculations in 12 policies, without further explanation. These often involved particular types of payments such as mortgage advances, deposits received, sale proceeds pending distribution, and funds held overnight or over a weekend to ensure there are no delays on completion of a matter.^{xv} As mentioned above, these transactions are amongst the most likely to generate income for ILCA schemes.

(c) *Calculating the interest rate for client: Top slicing interest on the general client funds account*

24. A key finding of our analysis was that even when client interest exceeds the *de minimis* threshold and funds are not exempt from interest calculations, clients still might not get all the interest generated by the funds they have deposited with their lawyer. This is because of the way in which the interest they are eligible to receive is calculated by a law firm.
25. Two key questions arise in this context. Firstly, when calculating client interest is the interest rate used the one which applies to an instant access business account like the one in which client money is routinely kept, or an instant access consumer account of the type available to any consumer on the High Street? Secondly, does the calculation include a portion of the interest uplift that law firms can acquire when they hold significant pooled accounts which attract a higher than usual business interest rate?

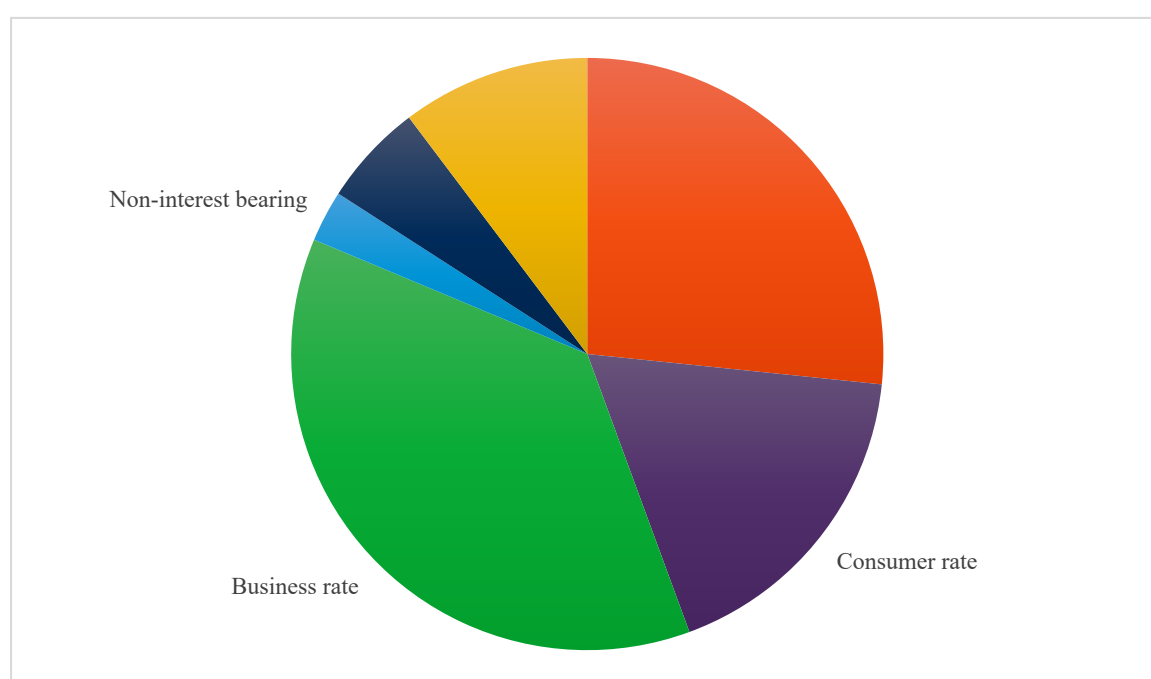


Chart Three: Categorisation of client interest policies by reference to the model used to calculate client interest (n = 214)

26. Our content analysis examined what client interest policies said about how client interest was calculated when the client had established a right to it. It can be seen from Chart Three that just over a quarter of policies were either unclear as to the exact method used to calculate interest or had no statement at all about how interest was calculated. Policies classified as vague were those where it is impossible to independently calculate the interest even if the detail of client deposits and transactions were known. For example, suburban London based firm Rosenberg and Co., assert:

In assessing what is a fair sum of interest to account to our clients, we have taken into account factors such as the administrative cost of managing our Client Account and also the period of time when a client might reasonably expect interest to accrue given the nature of their transaction and the reason that we are holding their money. ^{xvi}

Another example is Gwaelod-y-Garth based sole practitioner firm CLA Trust and Legacy Planning which notes in their policy that ‘The rate used to calculate client interest will be based on the prevailing economic climate and will be reviewed regularly.’^{xvii}

27. It can be seen that the most common way (37%) in which firms calculate the interest due to the client is by reference to the rates offered by client business accounts offered by commercial banks, such as the ones in which client money is held which are likely to attract higher rates than instant access consumer accounts. By way of contrast, it is noticeable that 18% of policies pay interest by reference to instant access accounts available to consumers on the High Street. A further 10% of policies calculated interest by reference to an identifiable rate such as the business rate or bank of England base rate but then discounted it by a set percentage. Examples of the large variety of discounts include 15% of the Bank of England base rate, the Bank of England rate less 2.5% or 3.5%, the RBS business account rate less 50%, and 0.25 below the Nat West or HSBC business rate. When these discounted policies are added to the consumer policies, it can be seen that a total of 28% of banks are paying clients at a lower interest than the law firm is able to attract through opening a business account.
28. Even when law firms offer a commercial rate to client when calculating the interest due, they do so by reference to the amount of interest which would accrue if the client placed their portion of the funds in a business account. But the pooling of multiple small amounts of money by a law firm opens up the opportunity of them negotiating a rate of interest which is higher than that offered to the lone depositor. In line with this t, we found that 33 (15%) of the 214 firms in our sample have chosen to be explicit to clients about the fact that they claim this additional uplift in funds. By way of example, both Myerson solicitors and Wace Morgan solicitors use the same wording to justify retention of the top slice: ‘We will retain interest paid to us by the bank on the aggregate of all client monies held in the General Client Account’ and platform based law firm Nexa makes clear ‘Interest is paid to us on the aggregate of all client money held in the general client account and, subject to any interest paid to you and other clients, is for our benefit’.
29. This practice would seem to comply with SRA Rule 5.1 which requires firms to account to clients for any financial benefit they receive as a result of their dealings with clients. It has also been argued that the practice of ‘top slicing’ involves no financial detriment to the client while affording the law firm the opportunity to generate interest income, thus constituting a mutually beneficial outcome (Gemstone, 2024). But the SRA have suggested that not all the members of the public they engaged in recent research on the topic considered this top slicing practice fair.

Investing funds from client interest accounts

30. While many of the policies examined make clear that accruing interest on client accounts is incidental to the main business of the firm, there is emerging evidence that some law firms are paying increasing attention to the potential for interest on general client accounts to be put to better financial use. Solicitors accounts experts Kempton and King (2024) have argued that the requirement to pay a fair sum of interest to the client out of the general client accounts held by law firms is, in effect, an expense of the business and that a well-run firm will cover the expense by earning interest on client money and paying it into their business or ‘office’ bank account. Firms can do this in one of two ways, by

investing retained interest generated by the methods outlined in earlier sections of this paper or by removing a portion of money held in the client account and investing it elsewhere in order to gain a higher return.

31. Solicitors are compelled to place client funds in instant access accounts with the result that the money is likely to attract less interest than that available on other types of account. Investment activity is also likely to be of less interest when interest rates are low. Despite this, Hazelwoods (2024), the accountancy and financial planning firm which undertakes the annual financial benchmarking exercise on behalf of the Law Society, has suggested that law firms could amplify the funding available to them through client interest, claiming that “It is not unusual...to see firms expending a significant amount of staff time on the act of actually earning interest.” Financial experts Gemstone (2024) have suggested that law firms could achieve higher interest rates than the standard advertised client account deposit interest rates communicated by the big four high street banks. Firms have also been advised to negotiate reduced banking charges or free banking in exchange for reduced client interest rates (Adderley, 2023) for the benefit of the firm. All of these options have become more feasible and increasingly attractive as interest rates have increased in recent years following the global financial crisis (see further Chart Four).^{xviii}

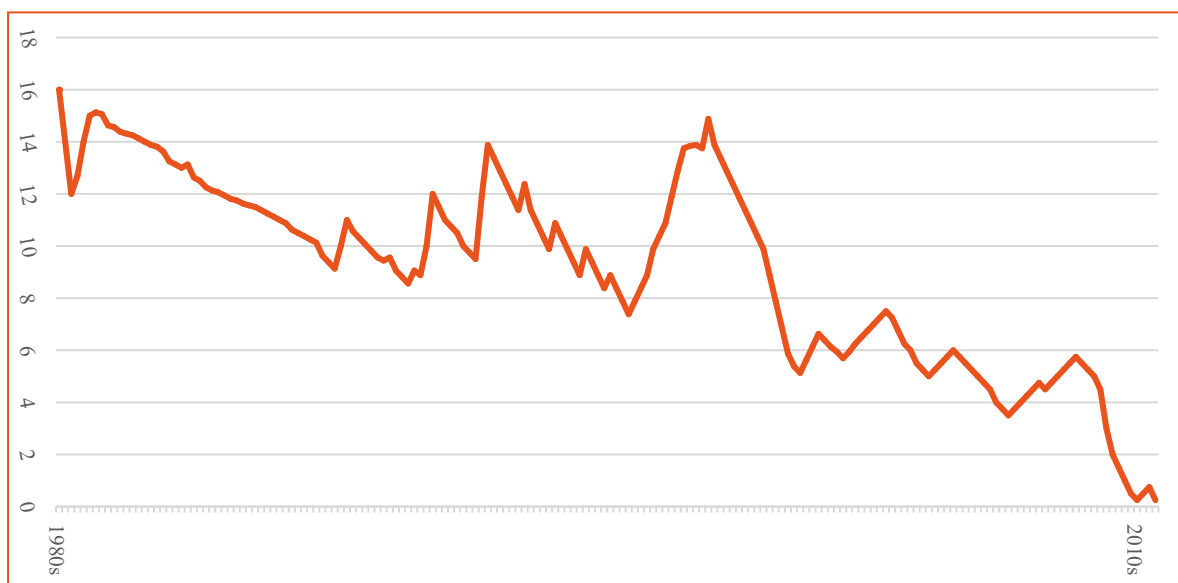


Chart Four: Variations in Bank of England Percentage Base Rate by decade 1980-2025
Source: Bank of England^{xix}

32. There is some evidence of some law firms investing a portion of the fund held in a general client account. Maintaining liquidity is key here as the SRA Accounts Rules require that client money must be available to the client on demand unless alternative arrangements have been agreed (rule 2.4). However, all the funds in the account are unlikely to be needed by clients or transactions in one day. This means that a portion of the funds can safely be reinvested by the law firm elsewhere in the market. Indeed, Kempton and King (2024) argue that a well organised firm will *always* put a proportion of its client money on deposit in a separate higher interest general deposit bank account and that the firm is entitled to keep the interest generated in this way. Gemstone,

(undated) have argued that despite constant fluctuation of the amounts held in client accounts there are likely to be significant funds available to invest once daily payment obligations and operational funds are taken into account. More specifically, Hazelwoods have argued that:

It is fairly common for firms to deposit a ‘top slice’ of client money in, for example, an overnight treasury account, as these have typically offered higher returns than a general client current account. We have seen firms locking client funds into longer-term deposit accounts that do not offer instant access, with terms ranging from weeks to months and even whole years. (Hazelwoods 2024, no page number)

According to financial advisers Armstrong Watson (2022) one way to generate additional income from unneeded funds is to move them out of the big High Street banks to smaller ‘challenger’ banks or building societies who are willing to pay more than traditional high street banks.

33. When law firms choose not to invest retained client interest it is the Commercial banks that gain the benefit. Banks primarily make their money in three ways: through retaining the ‘net interest margin’ between the interest they earn on loans and the interest they pay on deposits; by charging fees and charges for services such as account maintenance; and trading securities. Differences between the interest they make and the interest they pass on to clients is to be expected as a result.
34. Some of the client interest policies we analysed acknowledged this dilemma and made an attempt to explain it to clients. In a passage which is worth quoting at length Romford based firm, Kenneth Elliot and Rowe have argued:

We calculate interest at a fair rate which reflect the rates paid from time to time by our bank on our client account. ...The rates noted above are not especially good rates of interest when compared to savings products in the financial market. However, we are required to hold client funds in an account which requires instant access. This limits what we receive as high street banks do not pay high amounts on client account interest. Typically, our bank pays us 2-4% below base rate.^{xx}

35. It is clear for example that the current Bank of England base rate, recalibrated at 4% in August 2025 is much larger than interest rates indicated in Table 2 above. More specifically the four large commercial banks used by firms in our sample were offering much lower rates to solicitors opening general client accounts even when funds went over 10 million pounds; Barclays (1.5%), Lloyds (1.5%) and NatWest (1.6%). It was also noticeable that other accounts available to businesses also attracted slightly more favourable rates on lower deposits.^{xxi}
36. In the next section of this paper, we turn to consider how client interest is managed differently in other jurisdictions and the different dynamics between client, the public law firms and banks which come into being as a result. ILCA schemes in other jurisdictions have demonstrated that the ways of thinking about pooled funds outlined above can be substantially disrupted if we take the needs of the broader legal system into account. Designed to serve the broader interest by making funds available for access to justice and other initiatives in the public interest these schemes typically undermine the right of the lawyer to make use of these funds.

PART TWO: How do ILCA schemes operate in other jurisdictions?

Introduction

37. Across the world a range of ILCA schemes operate on the basis of diverting large amounts of nominal or short terms funds from solicitors general client accounts and making it available for public purpose and charitable causes. ILCA style programmes were first established in Australia and Canada in the late 1960s and early 1970s to generate funds for legal services to the poor.^{xxii} Changes to US federal banking law prompted the establishment of forty-seven US schemes in the 1980s and four in the 1990s, with the two additions since 2000 representing the Yukon territory of Canada and the Virgin Islands. Significantly, some of the early schemes cite a House of Lords decision as being responsible for the setting up of a local ILCA scheme so that lawyers could avoid benefiting from client money which they did not have a right to.^{xxiii}
38. Many of the schemes have been running for many years meaning that there is a wealth of information about their operation on which to draw. Chart Five below shows the number of schemes established by decade across the globe.

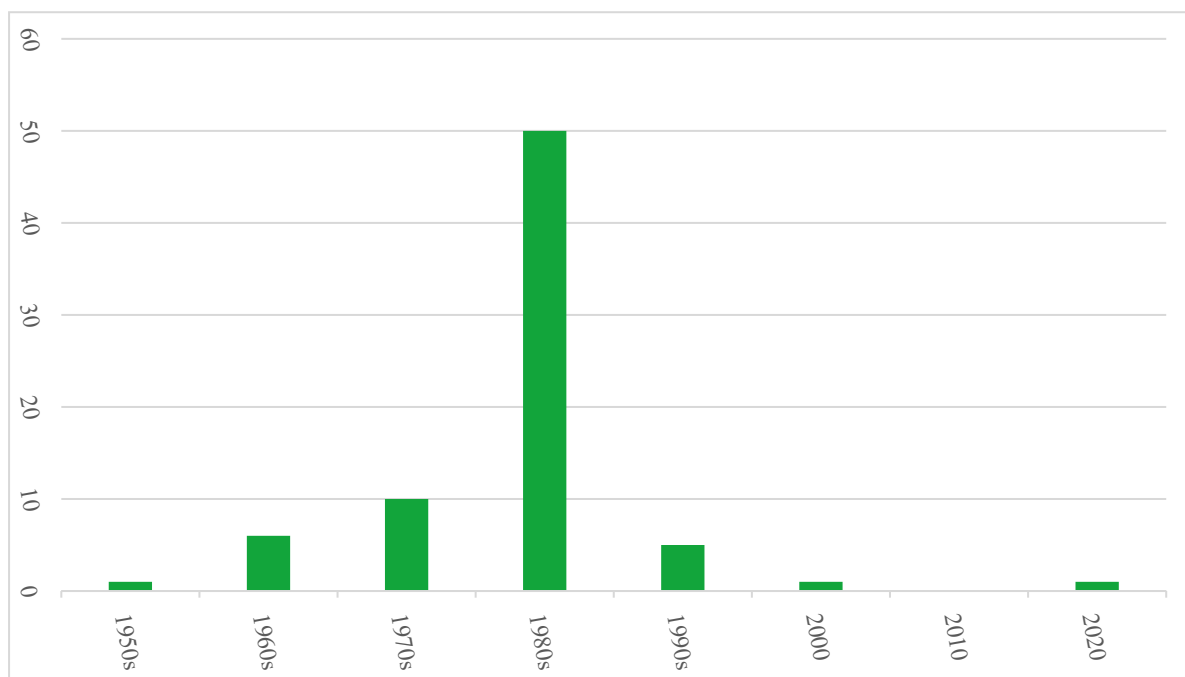


Chart Five: ILCA-style schemes by year established

39. Today there are 78 ILCA style programmes in the fifty States of the US and the District of Columbia, Puerto Rico, and the Virgin Islands; Canada's ten provinces and three territories; the eight States of Australia; New Zealand; South Africa; Namibia and France. All the 78 schemes established are still in operation, with none having been closed since commencement.^{xxiv}

40. The schemes in operation vary considerably in terms of the motivation of those who designed them, with some such as the France CARPA programme and the South African scheme coming into being as a result of concerns about money laundering and fraudulent activity on the part of lawyers. The schemes also vary considerably in terms of their level of centralisation, how much money they generate, how money moves around the scheme and who benefits from it. In addition, they have a variety of different names including Interest on lawyers Trust Accounts (IOLTA). In this section of the report we outline the X key models which dominate the ILCA landscape, the role of professional groups in maintaining and supporting them.
41. Schemes also vary in terms of whether they are voluntary or mandatory in terms of the participation of lawyers in the scheme. Of the 65 out of 78 schemes for which the information is available on public facing websites it is possible to discern that the majority (59) of international schemes are now mandatory, with at least 45 converting from voluntary to mandatory during their lifetime. We know that an additional 11 additional schemes are mandatory at present but not what they were when established.

	Total	Australasia	Canada	US	Other
Mandatory at initiation	14	1		11	2
Changed from voluntary to mandatory	45	6	2	37	
Always voluntary	6			5	1
Not clear	13	2	11		

Table Two: Status of schemes by whether they are voluntary or mandatory by region^{xv}

42. The time lag between a scheme being established as voluntary and converting to a mandatory programme varies considerably across schemes in this category of 45 schemes.

Key Models

43. All the ILCA-style schemes in operation across the globe share some characteristics, illustrated in Figure X. these are that law firms or lawyers are required to open general client or pooled accounts with a bank recognised by those running the ILCA scheme. In some jurisdictions this might be any bank with a commercial presence in the region. This is the position in Canadian ILCA schemes and XXXX In other instances law firms are only allowed to open general client accounts with particular ‘designated’ or ‘authorised’ banks which have signed up to be partners in the scheme. This is the system in all the ILCA schemes operating in the US.

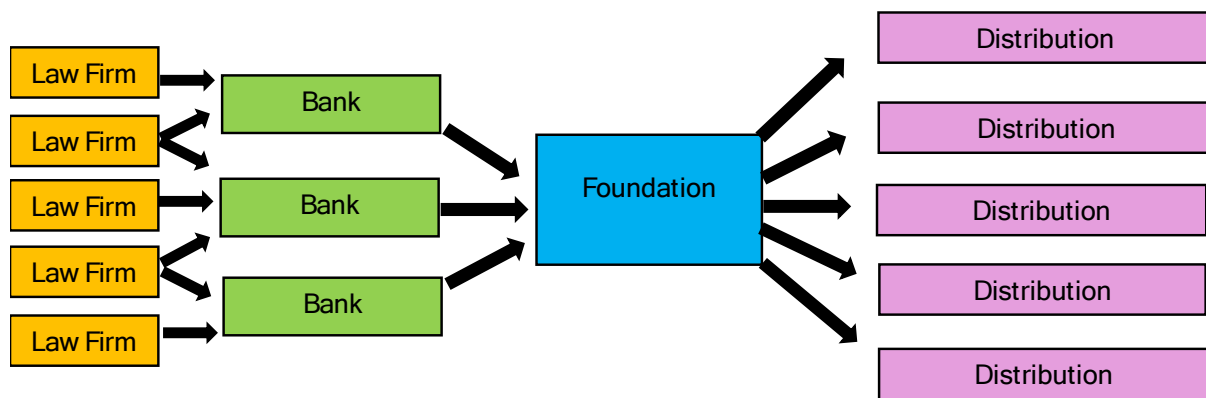


Figure Two: The basic ILCA model

44. Across all schemes, the interest accrued in these pooled accounts is not considered to be the property of the client on the basis that the administrative costs of paying out the small amounts of money that accrue on small funds held for short periods is thought to exceed the interest accrued. But unlike the system in England and Wales described in the last section, the funds are not considered to be the property of the law firm and cannot be retained by them. Instead, banks are required to pass on the interest to a Foundation set up to administer the ILCA scheme which then distributes the funds to a range of different initiatives (see table four below). Some schemes also gather and distribute other funds to the same causes including lawyers registrations fees, monies from dormant client accounts, fines paid to professional disciplinary tribunals. In addition to these sources of funding a number of schemes generate additional income by developing an investment portfolio.

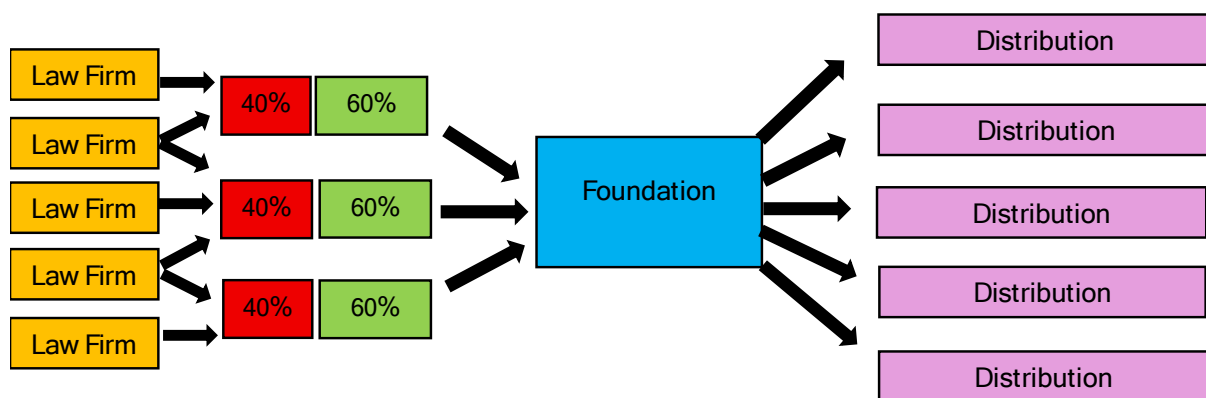


Figure Three: The Split Benefit scheme

45. Two significant variations from this model exist. The first which operates in New Zealand divides the income earned through client interest with banks involved in the

scheme. In this split benefit scheme, banks are allowed to retain 40% of the interest accrued before passing on the remaining 60 per cent to the Foundation which administers the fund, in this case the 'Lawyers and Conveyancers Special Fund'. This alternative model is illustrated in Figure Three.

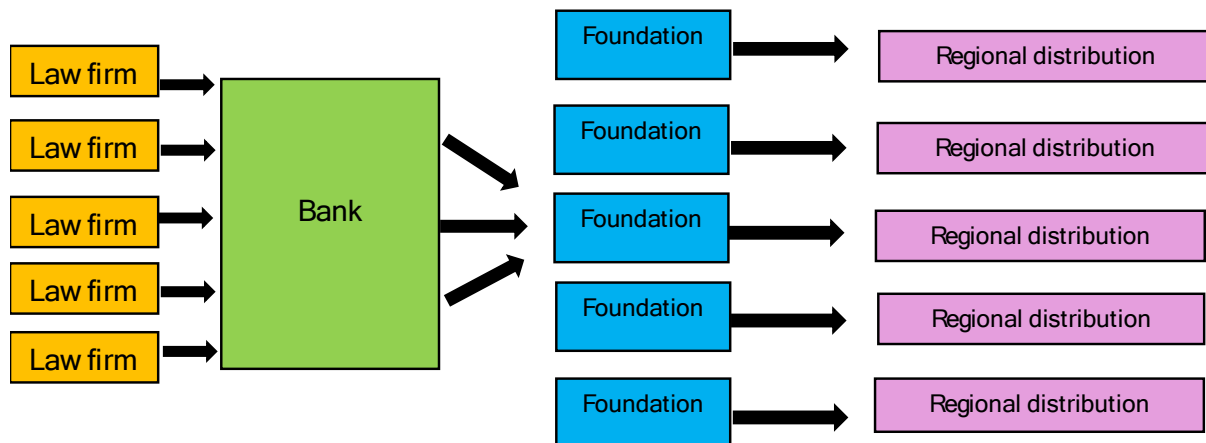


Figure Four: Centralised collection-regional distribution

46. Another significant variant operates in France where the incentive for the setting up of the scheme arose from concerns about money laundering and the financing of terrorism. The Caisse Autonome des Règlements Pécuniaires des Avocats (CARPA) requires French lawyers to deposit all client funds into the local Bar's pooled account, rather than their own firm's account.^{xxvi} This creates a decentralised network of autonomous regional organizations rather than a single national body and all the regional CARPAs are under the political and ethical control of the local bar association. However, all of the local bars pooled accounts are held with one bank which introduces an element of centralization. This central bank collects money on behalf of regional bar associations which then distribute the funds within the area they have jurisdiction. In short, the money collection process is centralised whereas distribution is regional. There are no less than 173 CARPAs throughout the country under the control of the local bar and united in a body called UNCA (Union Nationale des Caisses d'Avocats, or National Union of Lawyers' Funds).^{xxvii}

47. In the sections which follow we discuss other key characteristics of the schemes in terms of how the schemes enhance the funds available for distribution, who runs the ILCA programmes, who regulates them, what they spend their money on, the restrictions that are placed on their activities, indicators of success and challenges.

48. Foundations running ILCA programmes acquire significant bargaining power by virtue of overseeing large amounts of client interest made up of multiple nominal amounts. ILCA schemes across jurisdictions have drawn attention to the fact that they are able to negotiate more favourable interest rates with banks involved in the scheme.^{xxviii} A particular feature of ILCA schemes in the US is the introduction of the ‘comparability clause’. In the US ‘Interest on Lawyers Trust Account (IOLTA) schemes these clauses require participating banks to pay interest rates or dividends comparable to what they pay other customers with similar assets. Comparators might include the minimum deposit, length of deposit and amount of the deposit rendering an account holder eligible for more favourable rates of interest.^{xxix} Since most financial institutions offer non-IOLTA depositors preferred interest rates for larger balances this guarantees an uplift for IOLTA funds beyond what is currently possible in England and Wales. Data collected by the American Bar Association indicates that of the 52 IOLTA schemes operating in that jurisdiction, 35 of them have a ‘comparability requirement’ in place.

Type of fee	No.US
Monthly fee	6
Wire fees	25
Inactivity fee	16
Overdraft/insufficient fund fee	22
Cheque/deposit fee	11

Table Three: Fee exemptions negotiated by US state IOLTA programmes.
Source ABA^{xxx}

49. In addition to securing the most favourable rates of interest on pooled funds, a number of IOLTA schemes in North America have also successfully negotiated with financial institutions to reduce service charges. Data collated by the American Bar Association provides insightful indications of the different deals brokered with financial institutions across the United States according to the type of fee prohibitions which have been negotiated. These include charges relating to monthly service or maintenance; wire fees; inactivity; overdraft or insufficient funds fees; and cheque or deposit fees. Patterns of success are however patchy. Only four States in the US have negotiated to have none of these fees charged on IOLTA accounts; Rhode Island, New York, Oklahoma and New Mexico and twenty other jurisdictions have not managed to negotiate any fee waivers.^{xxxi}

What do ILCA schemes spend their money on?

50. ILCA schemes have funded a vast range of initiatives over their fifty-year history. The focus of many schemes is on providing legal advice, assistance and representation for those who would otherwise not be able to afford it. Indeed, a key finding of our survey of ILCA schemes is that provision of legal aid for the poor and disadvantaged is frequently a priority in terms of the size of grants. This commitment is made in the ways that foundations *choose* to distribute funds and the types of cause that some are *required* to support. Table four gives a sense of the variety of initiatives that are supported including legal aid provision.

Grant Type	Example
Legal Advice	In Paris, France, CARPA de Paris provides funding to the Solidarity Bus, a mobile vehicle that brings lawyers, social workers, and other professionals to underserved areas of the city to provide free legal advice. The Solidarity Bus has won several awards and inspired other countries to start their own legal advice bus programs.
Legal Aid	In Ontario, Canada, the Law Foundation of Ontario funds Legal Aid Ontario, which is empowered to decide how to use funds the foundation sends. In the last three years, the foundation provided annual legal aid grants of 146.3M (2022), 325.4M (2023), and 306.4M (2024).
Legal Education	In Arkansas, United States, the state Access to Justice Foundation provides funding earned from client interest to the Courthouse Kiosk programme. Kiosks help members of the public access legal forms, apply for legal aid, and learn about courts and the law. The kiosks are installed at courthouses, public libraries, and other public areas.
Legal Training	In South Africa, the Legal Practitioners' Fidelity Fund (LPFF) operates a tuition bursary for law students and legal professionals completing a postgraduate degree. LPFF fees and interest earned on lawyer client accounts (at a 5% rate set in 2019) help fund this bursary programme.
Professional Trust	In New Zealand, the Lawyers' Fidelity Fund uses interest earned on client accounts and professional fees to reimburse clients for monetary losses from lawyer theft. The fund is limited to claims lawyer theft, not negligence or other types of professional misconduct, and limits reimbursements to \$100,000.
Civic Education	In Indiana, United States, legal trust accounts' interest is provided by the Indiana Bar Foundation to fund Mock Trials, Indiana Sixth Grade Civics sessions, Kids Election, and other school-based civics education programmes that use active and inquiry based learning and mock legal and electoral processes to teach students about law and democracy.
Research	The Law and Justice Foundation of New South Wales in Australia uses client account interest to fund research on legal needs, including LAW, the Legal Australia-wide Survey, the country's first comprehensive national legal needs survey.

Table Four: Examples of grants allocated from ILCA schemes

51. Significantly, some ILCA schemes are expressly mandated to fund certain types of activity. These mandates are found in statutes, professional association rules, judicial orders, or in the bylaws of the independent foundations charged with grantmaking. For example:

- a. The Law Foundation of Ontario is statutorily required to send 75% of its earnings after operating expenses to Legal Aid Ontario, the main provider of civil legal aid in Ontario, Canada. The remaining 25% of grants are provided to projects such as the HIV Legal Network, a legal advice and policy programmes.
- b. Likewise, an order issued by the Supreme Court in the U.S. state of Louisiana expressly prohibits client interest funds that are provided to the foundation to be used for any purpose besides providing legal services to the indigent and mentally ill; public legal education; research how to improve the administration of justice. If any other programme is funded, it must benefit the public and state legal system and be approved by the Supreme Court of Louisiana.

52. On the other hand, we observed jurisdictions where independent justice foundations receiving client interest have the discretion to decide, either through their legislative mandate and bylaws or grantmaking processes, how to award client interest. For example, the Legal Foundation of Washington in the U.S. uses racial equity and evidence-based indicators of success to make awards.
53. Restrictions in the type and scope of funding were also discernible. For example, the Law Foundation of British Columbia, where interest on client accounts is sent, is statutorily mandated to fund legal education, legal research, legal aid, law reform, and law libraries for the benefit of persons in this Canadian province, only. In a similar vein, in Saskatchewan, Canada, the Law Society of Saskatchewan has chosen to restrict individuals and commercial businesses from applying for its grants, instead solely awarding funding to nonprofit organisations. For programmes whose main purpose is to provide professional integrity in the legal market, such as the Lawyers' Fidelity Fund in New Zealand the fund only pays claims filed within a year of an alleged theft by a lawyer, restricts the amount of money it reimburses victims, and only reimburses for cases of theft, not other classes of professional misconduct

Getting Professional Bodies and Banks involved

54. The success of ILCA schemes depends on the support of two powerful interests in society, the legal profession and commercial banks. The introduction of an ILCA scheme in England and Wales would diminish an important income stream for many law firms in times of high interest rates. It also has the potential to reduce the income that banks generate from holding large amounts of client money on behalf of law firms.
55. In other jurisdictions, some professional legal bodies have been supportive of the introduction of ILCA programmes, seeing the introduction of a scheme as one way in which the profession can fulfil their professional commitment to access to justice and enhance public confidence in the profession. By way of example, the American Bar Association claims to have supported ILCA-style programmes for many decades beginning in 1978, when it provided information on the development of American and foreign IOLTA programs to interested bar associations, legal services providers and states. Just a few years later in 1981, the ABA formed the Advisory Board and Task Force on Interest on Lawyer Trust Accounts to support the initiation and operation of IOLTA programs. In 1986 it established the ABA Commission on IOLTA, which collects, maintains, analyses and disseminates information on IOLTA programmes, makes recommendations for ABA policy on the creation and operation of IOLTA programs; liaises with state IOLTA programs; and oversees the IOLTA Clearinghouse, which provides information, materials and technical assistance on IOLTA programme design and operation.^{xxxii} The ABA Commission on IOLTA continues to monitor developments in areas that may affect IOLTA operations such as banking, grant making, tax law and constitutional law.

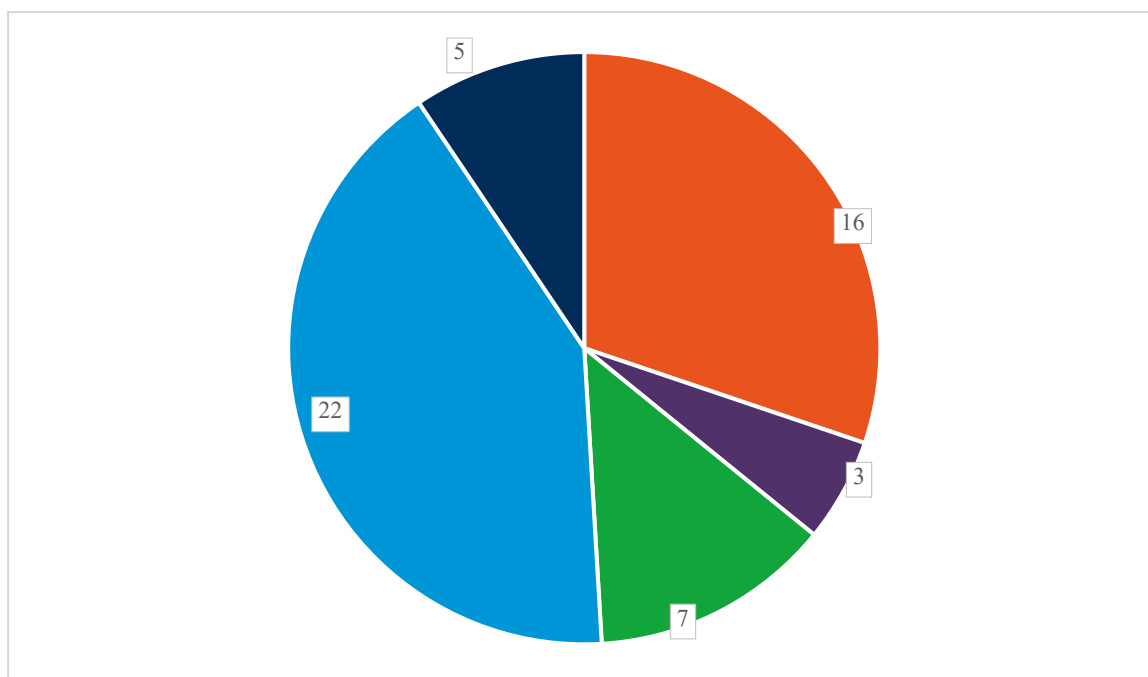


Chart Six: Who administers US IOLTA schemes

56. The bodies who administer ILCA-style schemes across the world differ from scheme to scheme but there is a tendency for the function of receiving and administering funds to be given to professional bodies such as a Law Society or Bar Association or a private not for profit foundation. In the US there are also some schemes which are run by a section of the State Supreme Court. Chart X shows data made available to the authors by the American bar Association on the organisations empowers to administer schemes across the US. It is significant that a Bar Association or Foundation is involved in distributing funds in 19 of the 53 schemes.
57. Significantly, the websites of individual schemes place considerable emphasis on the importance of good partnerships with banks for the success of the IOLTA scheme. NAIP note that many North American schemes work to highlight the contribution made by financial institutions by presenting them with awards, featuring them in their publications, promoting them on social media, marketing them to the legal community.^{xxxiii} One initiative introduced in the US involves individual schemes advertising banks which offer a minimum rate of interest and no service fees as a Prime Partner on their websites. It is also worthy of note that although the terms that Foundations are able to negotiate with Banks vary, being part of an Association of IOLTA schemes does provide those involved in IOLTA programmes to compare practices across jurisdictions. By way of example the Yukon Law Foundation which is in the Canadian territory with the smallest landmass, has indicated that the Association of Canadian law Foundations annual meeting helps smaller foundations to identify a benchmark when negotiating interest rates with financial institutions and improves their negotiating leverage.^{xxxiv}

The Challenges posed by ILCA schemes

58. There are two major challenges faced by ILCA funds in other jurisdiction which are being much discussed. The first of these is fluctuating funds and the second relates to enforcement. In the sections below we deal with these in turn.

Fluctuation of funds

59. Interest rates play a significant role in the success of ILCA accounts, as they determine the amount of interest generated and ultimately distributed to legal aid providers and other organisations. The fluctuating nature of interest rates means that ILCA accounts can be significantly impacted by changes in the market.

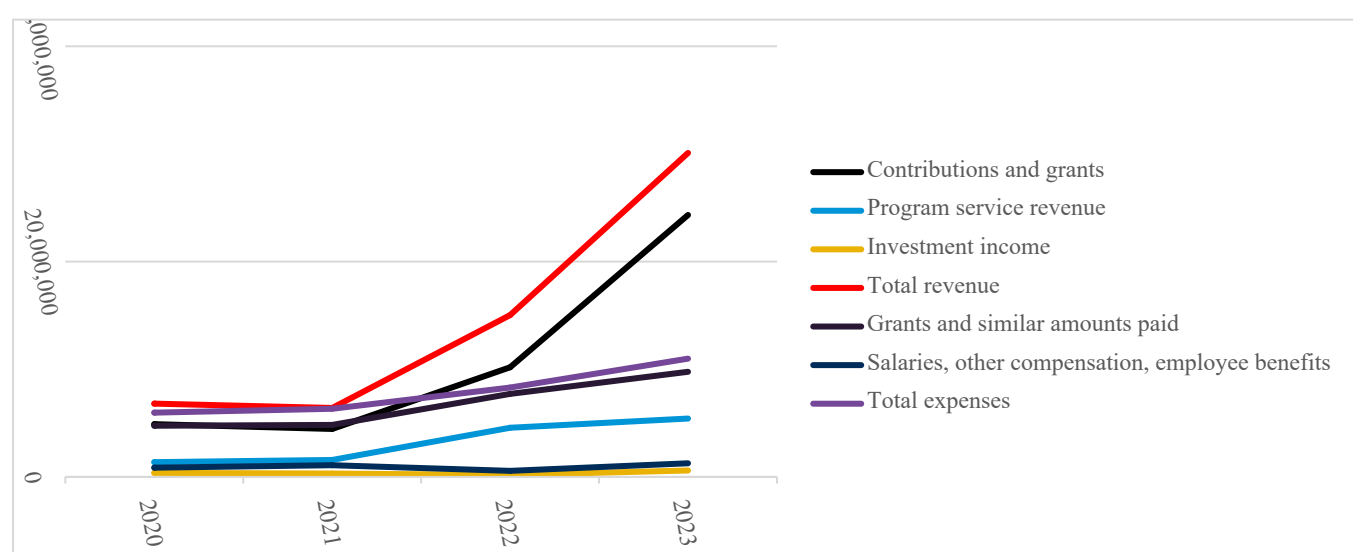


Chart Seven: Mean Change in revenue and grants 2020-2023 in 19 US ILCA schemes

60. Scholars and practitioners have raised questions about the stability of ILCA revenue streams to fund access to justice initiatives, particularly as both interest rates that banks offer and real estate conveyances lawyers handle typically decline in periods of economic distress, when access to justice needs can be expected to increase. Many ILCA schemes divert some portions of annual interest revenue to investment accounts and diversify programme revenue to include other income streams. This allows them to ‘hedge’ against future declines in client account interest, including by drawing revenue from licensing fees, cy press awards, regulatory settlements, abandoned client account money, and direct government payments, if available, to support programmes.

61. However, to date, there are few studies that have systematically examined whether ILCA programmes provide stable grant funding for access to justice initiatives when revenues vary. The authors are continuing to explore this issue, but our initial results from a limited comparative analysis of U.S. ILCA schemes show that, despite talk of reserves and investments, their grant spending rises when revenues rise and fall when revenues decline, while program administrative costs remain relatively stable (see chart X).

Enforcement

62. ILCA schemes involve a number of different law firms' banks and beneficiaries across jurisdictions. This inevitable introduces a high level of complexity in managing schemes. Sometimes this is down to procedural errors by those participating in the scheme. By way of example, the Law Society of Alberta has reported that in the last few years, the Foundation has identified over \$2 million in unpaid interest because lawyers' accounts were not opened correctly, or the firm did not instruct the financial institution to pay the interest to the Foundation.^{xxxv}
63. The variability of interest rates can also cause problems. The authors have been informed by ILCA scheme managers that fixed or transparent bank rates makes it much easier for foundations administering the scheme to calculate how much income they are due. In response to issues of this kind, there is an IOLTA rule in force in Florida which requires all banks participating in the scheme to benchmark their interest rate to the Wall Street Journal Prime Rate.

PART THREE: Reflections on the Data: Who should get the benefit of client interest and investment opportunities?

Now I shall offer another possible solution which would release private resources for an improvement in legal services. This solution also raises hackles and problems: it is the question of who should benefit from interest on clients' money. (Goldsmith, 2024)

Who benefits from current arrangements?

64. As the quote from Goldsmith reproduced above suggests, the issue of who should get the benefit of client interest and investment opportunities is a controversial one. At present in England and Wales there are three key actors who stand to benefit from current practice:
- The first is the client, though our analysis of current client interest policies suggests that several mechanisms are in place that work to minimise or exclude their ability to access the interest earned. Indeed, our analysis of publicly available policies suggests that clients using the firms in our sample have the odds of benefiting from interest stacked against them.
 - The second beneficiary under the current arrangements are law firms. The small number of policies which alerted clients to the fact that money is not deposited in an interest-bearing account, and the larger number which undertake to share the uplift in interest with clients suggest that some firms are not interested in revenue generated through this route. The remainder clearly have the potential to use the funds as a significant additional income stream.
 - The third beneficiary are the banks which operate according to a business model that dictates that they will endeavour to make money on pooled funds as a matter of course.
 - ILCA schemes offer the opportunity to introduce a fourth beneficiary, the public. We argue that debate about the introduction of an ILCA system in the past has benefited from a lack of evidence about how these schemes operate.

Turning the spotlight on the banking sector

65. Interest on lawyer client accounts, like other deposits, are how the banks make loans and earn profits. Banks earn profits from such loans regardless of whether they also pay interest to depositors or, in the case of some lawyer's client accounts, ILCA programs and initiatives.
66. It is worthy of note that neither those raising normative objections to ILCA schemes nor those bringing legal claims against ILCA schemes in instances in which they have been challenged in the courts, have questioned whether banks should profit from interest earned on client money. This is despite the fact that law firms have been regularly criticised when they have done so. For example, in the second quarter of 2025, US commercial banks earned more than twice their net earnings income on savings and loans compared to all other sources of profit.^{xxxvi} Similarly in the United Kingdom, a historical review of UK bank ledgers found that, even amidst the Global Financial Crisis circa 2007-2009, banks continued to profit from 'market-making' activities. (Brett, 2013). In countries that ILCA schemes operate in attracting deposits is at the core of many banks' business strategies.

Enhancing confidence in the legal profession

67. The Law Society has historically opposed suggestions that an ILCA scheme is introduced in England and Wales. Amongst recently voiced concerns they have raised legitimate concerns about the vulnerability of sole practitioners and legal aid practitioners to the re-direction of income from their accounts to those of an ILCA scheme. We close this submission by arguing that debate on the possibility of introducing an ILCA scheme has suffered from a lack of evidence about the design of schemes around the globe and the benefit that many of them bring to the free legal advice sector and the legitimacy of the legal profession more generally. The question of who would benefit from the introduction of an ILCA scheme is an important one. It is clear from the data we have collected above that some schemes significantly enhance legal aid budgets. Legal aid practices which serve the public good by offering free legal advice and enhancing access to justice could also be made exempt from having to participate in an ILCA scheme, and/or identified as key beneficiaries of any scheme established.
68. For other practitioners and the legal profession as a whole ILCA scheme do provide an opportunity to enhance the reputation of lawyers by demonstrating their commitment to the re-distribution of accrued interest which is currently largely available only to them. This is especially the case where ILCA funds are used to reimburse clients who have been the victim of fraudulent activities by a lawyer or money laundering, as happens in the South African, French and New Zealand schemes.

Appendix A: Methods

Client Interest Policies

In an attempt to fill the gap in the existing literature a content analysis of the information which is publicly available on the internet about law firm practices in relation to client interest was undertaken. Unfortunately, it is not possible to find a comprehensive, publicly available archive of law firms' client interest policies. Firms are not required to publish their policies on the internet and many may only make their policies available at the point at which they are retained by a client. Recent research with 604 law firms commissioned by the Ministry of Justice found that only six per cent of law firms who took part in the survey published their guidance on the internet. Using this percentage to estimate how many of the 9,102 firms practising in England and Wales do so suggests that just below 550 policies should be available.

The policies found for this study after extensive searching were much lower at 214. However, there are a number of reasons why law firms might choose not to publish their policy. Some may consider it sensitive commercial information which could alert competitors to the financial arrangements they come to with clients. Others may prefer to discuss their policy during 'client care' conversations. In some instances there were indications within policies that firms were happy to negotiate the basis on which they allocated client interest directly with their client. A further finding during the course of this project was that approximately 50 links to client interest policies led to notices that the information was no longer available using the link. This suggests that some firms may no longer consider it prudent to advertise their approach in this way.

With the goal of finding as many policies as possible we began with an internet search using terms such as 'solicitor client interest policy,' 'licensed conveyancer client interest policy', 'client interest policy' and variations on this theme. This generated 132 valid links through to mainly standalone policies on a law firm websites, and less frequently to a section of the terms and conditions document. We then used three AI programmes in an attempt to identify more web links to policies. This resulted in gaining access to 82 additional documents. Significantly, some AI tools were much better at finding sections in a firms terms and conditions relating to their policy but were much more likely to provide defunct links.^{xxxvii} This resulted in access to a total of 214 web based client interest policies published on the internet in August 2025.^{xxxviii}

It cannot be assumed that those firms that have chosen to publish client interest policies are representative of the profession more generally, but we were interested in trying to find out the extent to which the firms in our sample represented the profession. With this in mind, in addition to the general search described above, we also targeted firms of solicitors based in all the 109 cities and towns classified as major and large 'built up areas' by the Office for National Statistics following the 2021 census. This included cities such as Birmingham, Manchester, Newcastle, Coventry, Cardiff and Hull as well as a large range of 86 towns such as Aylesbury, Hartlepool, Worthing and Wigan. Chart 1 shows the regions of England and Wales in which the firms in our sample have both their main and regional offices alongside percentages of the population who live in each region. It can be seen from this that law firms in London dominated the sample (44%) but according to the Law Society's *Annual Statistics Report* 41% of lawyers worked in London in 2022.^{xxxix}

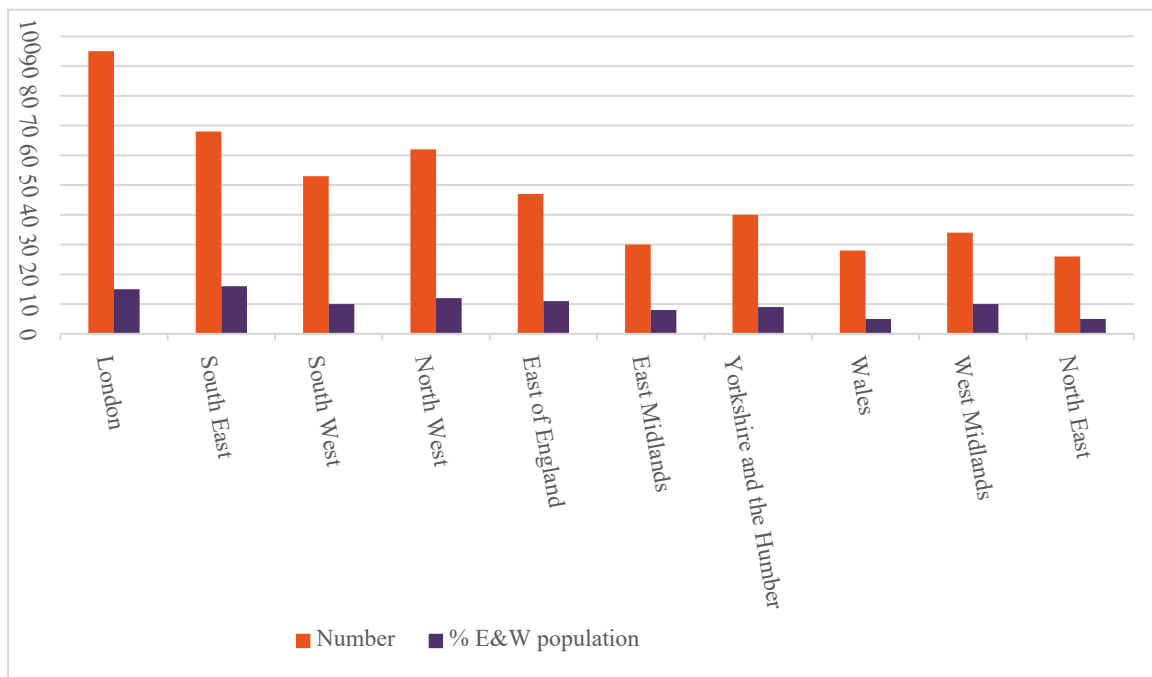


Chart Eight: Regions of England and Wales in which firms in sample had offices (n =541)^{xl} and percentage of English and Welsh population living in each region^{xli}

We also sought out the policies of a wide a range of firms in terms of size and type of work. High Street firms and medium size firms with several offices were well represented in the sample produced as a result of our internet search, but we also identified the largest 20 law firms by revenue^{xlii} and searched their websites for references to client interest policies. This generated a further 12 policies. Having completed our searches we also checked the list of firms in our sample against the Legal Aid Agency Directory for England and Wales, and found that 32 (15%) firms in the sample had at least one active legal aid contract.^{xliii} This compares with 14% of law firms in the England and Wales that have been awarded a legal aid contract as of July 2025.^{xliv}

Having identified links to client interest policies, each site was visited and the relevant text carefully analysed. The policies examined varied considerably in length from one paragraph to several pages. Following a pilot study involving 30 policies an inductive coding framework was developed which involved gathering data on key variables which were entered into Excel. These were the name of the firm, the location of the firm, whether their policy was standalone or contained in the standard terms and conditions used by the firm;; whether they had a *de minimis* policy (see below) and if so what was the threshold amount; whether any types of fund were labelled as exempt for the purposes of calculating the clients share of interest; the method through which the portion to be shared with the client was determined; the rate of interest if detailed; and the firms bank. An additional cell was dedicated to collecting any other information of relevance to the project. Sections about client interest in terms and conditions occasionally referred to a longer policy being available, but many sections of standard terms and conditions were as long as the standalone versions.

Data on ILCA schemes

Data on ILCA schemes was primarily obtained from publicly available sources such as the websites of ILCA programmes, annual reports, tax filings or the records of ILCA supported foundations. We also consulted the legislative instruments, court orders and professional association rules under which schemes were established. In addition, we learnt about banking data relevant to ILCA schemes from the Federal Deposit Insurance Corporation. It is important to note that ILCA schemes rarely collect or publish consistent data using a standard set of variable. The exceptions is the US where the American Bar Association has undertaken to collect some data from across schemes which it makes available to the public. In addition to undertaking an analysis of publicly available information we were fortunate to be able to discuss IOLTA programmes with those managing them in the US.

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Footnotes

ⁱ The project is entitled: Creating a New Mixed Funding Model for Free Legal Advice. Further details of the project can be found here: <https://www.law.ox.ac.uk/mixed-funding-models-for-free-and-early-legal/creating-mixed-funding-model-free-legal-advice>

ⁱⁱ https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/

ⁱⁱⁱ It has been argued that this increase is not as sensational as it might seem given that interest rates have been so low in recent years. Gemstone (2024), for instance have drawn attention to the fact that ring at just 0.01%. A 1000% increase on an interest rate of 0.01% only sees the interest rate rise to 0.11%.

^{iv} <https://www.crowe.com/uk/industries/professional-practices/law-firm-benchmarking-2024>

^v These data are shown in the Crowe report as percentages but as the total sample is less than 100% this can be misleading. As a result, we have converted the percentages back to the number of firms.

^{vi} The SRA rules allows that firms come to a customised arrangement with their client as to the payment of interest as long as they provide sufficient information to enable the client to give written informed consent See Rule 7

^{vii} See further: <https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/>

^{viii} A detailed account of how these policies were identified and analysed is contained in Appendix one.

^{ix} For instance, they commonly referred to the SRA Accounts rules, regularly named the commercial banks they deposited client funds in, made clear that the general client account was commonly instant access accounts in the interests of transactional ease and speed, and the majority of policies alerted clients to the fact that as a result these accounts were less likely to yield the higher rates of interest that clients might be able to attract in savings or investment accounts.

^x The significance of this for HMRC is that clients are responsible for reporting interest earned to them. See further: <https://www.gov.uk/hmrc-internal-manuals/vat-supply-and-consideration/vatsc03590>.

^{xi} In anticipation of this some firms anticipate in their client interest policy that in times of low interest rates they may not pay any interest out to clients. See for example: Hubbard Pegman & Whitney

^{xii} The applicable rate of interest commonly increases on balances of over £1 million pounds and this is why two different rates of interest appear in line one of Table Two.

^{xiii} Predictably the average was highest in London at £518,000 and lowest in the North East at 155,000

^{xiv} In 2019 the SRA Accounts Rules were changed so that “client money” received from the LAA in respect of a solicitor’s costs need not be paid into the client account and can go straight into office account.

^{xv} The ‘other’ category contained an eclectic group of exemptions including an exemption relating to ‘money...held in an instant access account for transactional convenience’ or a provision that interest would not be paid in situations where one firms ‘risk portfolio increases the more client funds they held or the premiums and fees they paid to their insurers and regulator increased the more client money they held.

^{xvi} See further: <https://www.rosenberg-and-co.com/interest-policy#:~:text=>

^{xvii} <https://www.cla-tlp.co.uk/en/page/interest-policy>

^{xviii} interest rates have fluctuated considerably over the last forty-five years. While the average interest rate in the UK between 1971-2025 has averaged out at a healthy 7.05% and has been as high as 17% in late 1979, it reached its lowest point at 0.10% in March 2020. T

^{xix} The data per decade reflects the number of times the base rate was altered by the Bank of England in a given decade. <https://www.bankofengland.co.uk/boeapps/database/Bank-Rate.asp>

^{xx} See further :///C:/Users/soc10413/Downloads/Client-Account-Interest-KER-Limited-2024%20(2).pdf

^{xxi} On 26th August 2025 this included the Business Premier Account at Barclays.

^{xxii} France established the CARPA scheme in 1957, though its primary this was primarily intended as a device to manage the money laundering crisis and financing of terrorism. The first SILCA style programmes are generally traced back to Australia.

^{xxiii} *Brown v Inland Revenue Commissioners*, [1964] 3 All ER 119 concerned a Scottish Solicitor who following an established custom invested client money and retained the interest that accrued on it. The court decided that the solicitor owed a fiduciary relationship to their client and could not make a profit by holding monies on their behalf.

^{xxiv} It is important to note that the Virgin Islands scheme is still being set up at the time of writing.

^{xxv} All the schemes in Canada are now mandatory but we cannot determine whether they were mandatory at set up or transformed from voluntary to mandatory. The authors plan to conduct interviews with scheme providers in order to complete this profile.

^{xxvi} Each firm has its own account at the CARPA and a sub account is set up for each matter managed by the firm

xxvii See further: <https://carpa-lbcft.org/en>

xxviii See for instance <https://carpa-lbcft.org/medias/aml-ft-the-carpa-system-6176c61ed3d37609601024.pdf>

xxix See for interest the explanation of the comparability rules in North Carolina: <https://www.ncbar.gov/for-lawyers/governing-rules-of-the-state-bar/1317-comparability-requirements-for-iolta-accounts/> or California: https://www.calbar.ca.gov/Portals/0/documents/iolta/FAQ_%20about_IOLTA_Comparability_82012_revised.pdf

xxx <https://public.tableau.com/app/profile/stephanie.custard/viz/ABAIOLTAProgramdatabase2025/ABAIOLTAProgramDashbaord2025>

xxxi These are Alaska, Montana, North Dakota, Minnesota, South Dakota, Wyoming, Colorado, Nebraska, Kansas, Arizona, California, Kentucky, Indiana, West Virginia, Maine, New Hampshire, Vermont, Massachusetts, Puerto Rico and Connecticut

xxxii See further: https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/

xxxiii <https://iolta.org/what-is-iolta/iolta-and-financial-institutions/>

xxxiv <https://www.yukonlawfoundation.com/>

xxv <https://www.lawsociety.ab.ca/alberta-law-foundation-update/>

xxvii Our review of banking sector profits found that banks in the United States earned \$356,870 billion in net interest income over the most recent three-month reporting period (second quarter of 2025) compared to \$167,530 billion in non-interest income in US dollars over the same period (source: FDIC quarterly data).

xxviii Even though the links did not work AI programmes were frequently able to summarise the content of what had once been public. The information they produced was not used for the purpose of analysis as it could not be verified.

xxviii This began with a simple Google search using terms such as ‘Solicitor Client interest policy’ which allowed us to identify just over 100 policies. We then used ChatGPT to find more policies and this provided access to a further 76 additional documents. The content analysis was undertaken by a member of the research team. Interestingly, ChatGPT was much better than Google at finding sections in a firms terms and conditions relating to their policy.

xxix [https://www.lawsociety.org.uk/topics/research/annual-statistics-report-2022#:~:text=Solicitors%20in%20Greater%20London%20and,holders\)%20based%20in%20this%20region.](https://www.lawsociety.org.uk/topics/research/annual-statistics-report-2022#:~:text=Solicitors%20in%20Greater%20London%20and,holders)%20based%20in%20this%20region.)

xl One additional firm was platform based

xli Where firms in the sample were global with offices based inside and outside of England and Wales we included the firms in England and Wales in the chart but not those outside of it.

xlii This was done by reference to a list published by The Lawyer: <https://www.thelawyer.com/top-200-uk-law-firms/>

xliii The Directory can be found here: <https://www.gov.uk/government/publications/directory-of-legal-aid-providers>

xliv This figure has been calculated by reference to the total number of solicitors in England and Wales regulated by the SRA (see further https://www.sra.org.uk/sra/research-publications/regulated-community-statistics/data/solicitor_firms/) and reports of the number of firms awarded a legal aid contract in 2024 to begin in October 2025 (see further <https://www.lawgazette.co.uk/news/time-is-running-out-civil-legal-aid-provider-numbers-plummet/5121160.article>)