Software self-assessment framework - overview

Trust records for BIF Act 2017

Queensland Government

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Introduction

The Building Industry Fairness (Security of Payment) Act 2017 (the BIF Act) and Building Industry Fairness (Security of Payment) Regulation 2018 (BIF Regulation) prescribe a trust account framework for certain eligible building and construction contracts. Under the BIF Act, trustees must keep certain trust records. These requirements are important to the integrity of the trust and the trust protections and ensure effective oversight, financial transparency and information sharing.

The four critical elements of compliant trust records include:

1. Keeping a separate trust ledger for each trust

2. Ensuring all transactions affecting the trust are recorded in the ledger accounts

3. Reconciling the ledger account to ensure the accuracy of the records

4. Ensure access to the above trust records and related source documents for 7 years

A trustee may use a computerised system to assist in keeping records. If software is used, the trustee must ensure the records created and maintained by the software product comply with the legislative requirements.

To assist industry, the Department of Housing and Public Works (DHPW) is supporting a voluntary self-assessment process for software providers that offer trust accounting solutions. This process aims to support providers with the information and tools to enable development of solutions that can produce trust records in accordance with the statutory requirements.

Purpose

This document outlines the minimum requirements for trust account records under the BIF Act that software solutions should aim to produce to enable industry compliance.

Background

A **trust** is a relationship which arises when a person (the trustee) holds property on behalf of and for the benefit of other parties (the beneficiaries). A **trust account** is a bank account in which the trust assets are held. Trust Accounts **must** be opened and operated in the name of the trustee to ensure the statutory trust protections for beneficiaries.

Under the framework there are two types of trusts – Project Trusts and Retention Trusts

Project Trusts protect subcontractors' progress payments (i.e. the regular payments made during a construction project). One project trust account is required for each eligible building contract. The head contractor is generally the trustee (i.e. the person or entity responsible for the trust). All payments from the principal (e.g. the client) are deposited into the project trust account, from which the subcontractors and the head contractor are paid amounts they are entitled.

Retention Trusts protect cash retention amounts withheld by the contracting party. One retention trust account is required for each contractor for any retentions withheld across multiple contracts and projects. At full implementation of the framework retention trusts will be required throughout the contracting chain. Accordingly, the contracting party (e.g. principal, head contractor or subcontractor) is the trustee, and the beneficiary is the contracted party from whom the cash retention amount is withheld (e.g. head contractors or subcontractors).

There are a range of requirements for operating trust accounts and managing payments including notifications to relevant parties, limitations on withdrawals and the keeping of certain trust records.

Trust records

Trustees must keep 'proper' trust accounting records that show the true position of all trust money and interests in the trust. Trust records are important to the integrity of the trust and ensuring the trust protections.

For each project trust and retention trust, the following accounting records must be prepared and kept:

1. A separate trust account ledger, consisting of ledger accounts for each beneficiary, the trustee and the trust (bank) account and in which all relevant transactions affecting the trust and balance of beneficial interests must be recorded; and

2. Monthly reconciliation statements prepared within 5 business days of the end of each month and involving a trial balance of the ledger accounts, and a reconciliation of the trust (bank) ledger account to the balance of the financial institution statement at the end of the month.

3. In addition, the trustee must ensure a copy of all relevant records are retained (for at least 7 years after the trust is dissolved) including but not limited to copies of building contracts, subcontractors, payment claims and schedules, bank statements, payment instructions, and trust notices.

Authorising provisions

Building Industry Fairness (Security of Payment) Act 2017 (the BIF Act)

S52 Trust records

The trustee for a project trust or retention trust must—

(a) keep records for the trust as prescribed by regulation; and

(b) retain the records for at least 7 years after the trust is dissolved.

Maximum penalty—300 penalty units or 1 year's imprisonment.

Building Industry Fairness (Security of Payment) Regulation 2018 (BIF Regulation)

10F Ledger accounts and reconciliation statements – Act, s 52

1. For section 52(a) of the Act—

    a. ledger accounts must be kept for each project trust or retention trust; and
    b. monthly reconciliation statements must be kept to show that the ledger accounts correctly record relevant transactions.
2. The ledger accounts must be kept as follows—

    a. the ledger accounts for the trust must be kept separately from the ledger accounts for any other trust and from any other accounting record;
    b. each relevant transaction affecting the trust must be recorded in the ledger accounts within 3 business days after the transaction occurs;
    c. there must be separate ledger accounts for the following—
        i. each beneficiary other than the trustee;
        ii. the trustee;
        iii. the trust account;

d. before an electronic system used to keep the ledger accounts is changed or records are archived or deleted from the system, steps must be taken to ensure that the records remain accessible in a readable form by regulation.

10F Ledger accounts and reconciliation statements – Act, s 52

1. A reconciliation statement—

    a. must be prepared within 5 business days after the end of each month; and
    b. must show a trial balance of the ledger accounts at the end of the month that confirms that the total of debit balances equals the total of credit balances; and
    c. must show that the balance in the trust account ledger account at the end of the month is the same as the balance in the financial institution statement for the trust account at the end of the month.

Ledger relationships to trust accounts

The BIF Act requires a separate project trust account for each project/contract. There must be individual ledger accounts managing the records of account transactions for each trust of the building contractor.

The BIF Act allows a building contractor to hold retentions from across multiple projects in a single retention trust account (Figure 1). Building contractors may also (for operational reasons) choose to separate retention amounts into more than one retention trust account, if preferred (Figure 2). Again, there must be individual ledger accounts managing the records of account transactions for each trust of the building contractor. Further, in some cases there will be trustees (e.g. principals/developers and subcontractors) who will only require retention trusts and will not also have a project trust.

Software must be able to facilitate multiple 'separate' project trust ledgers and at least one separate retention trust ledger. If software determines not to facilitate multiple retention trust ledgers, this must be clearly communicated to clients/industry.
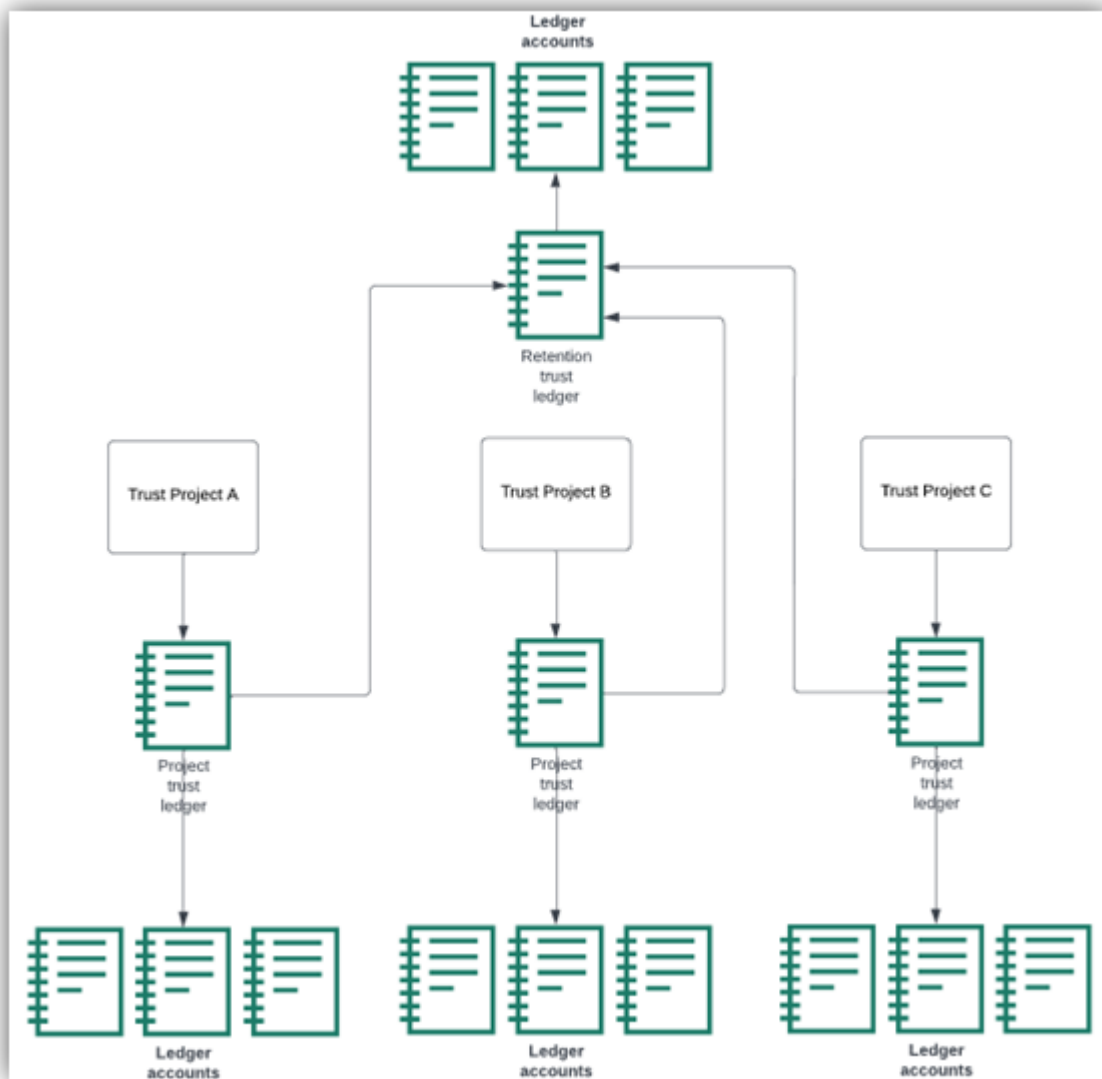
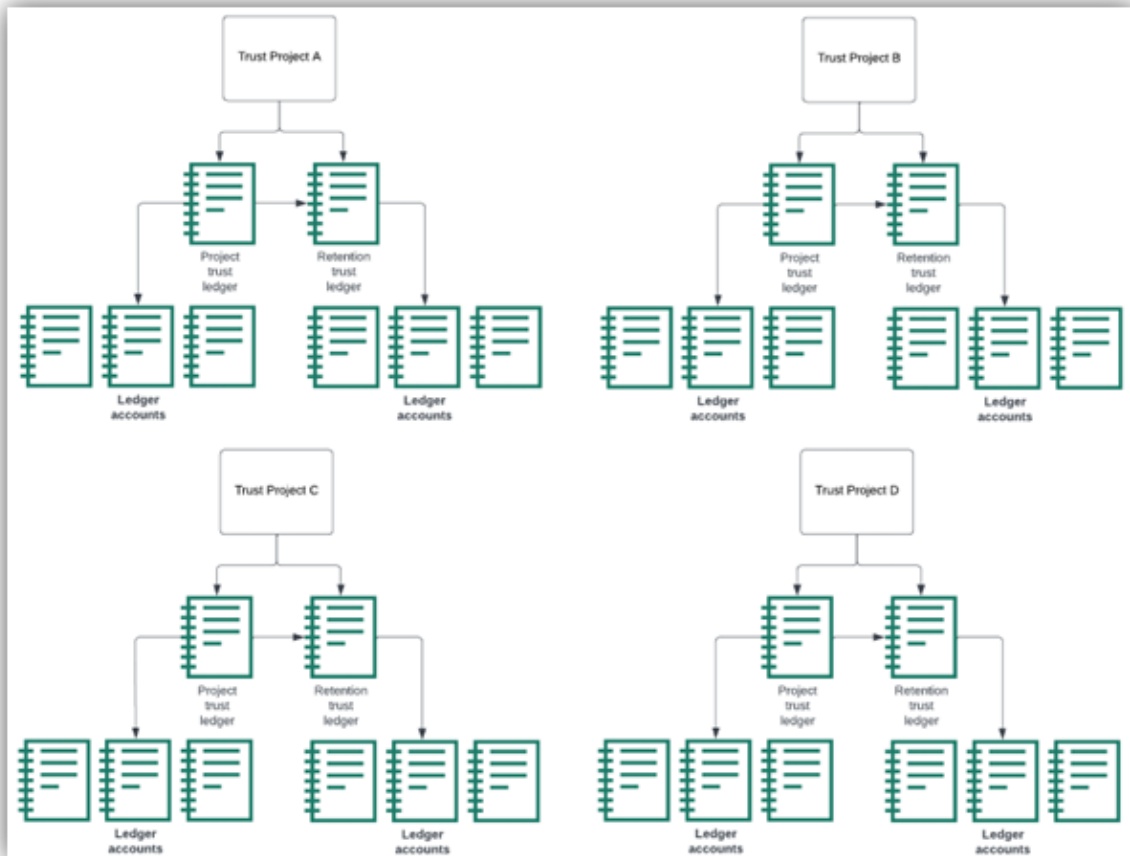Figure 1 – Single retention account for multiple trust projects

Figure 2 - Multiple retention accounts for multiple trust projects

Requirements

This section provides a list of minimum requirements for trust records under the BIF Act and should be used by software providers to guide development of trust accounting solutions.

Trust ledger requirements

	Functional requirements
1	The software is capable of keeping separate/individual trust ledgers for multiple concurrent project trusts (i.e. across multiple project contracts)
2	The software is capable of keeping separate/individual trust ledgers for at least one retention trust.
3	The software solution is also capable of keeping separate/individual trust ledgers for multiple concurrent retention trusts.
4	The trust ledger only records transactions for the trust to which it relates. • Transaction means any event that changes beneficial interest in the trust or changes the balances of cash in the account.

	• Individually balances the transaction postings at all times (with reference to double entry accounting principles there must be balanced entries for each posting in a single ledger; entries cannot find their corresponding posting in another set of ledgers e.g. general business accounts).
5	The trust ledger does not record general accounting transactions. • Does not record general project transactions (in the same way that they are recorded in the general accounts). • The ledger only records changes in beneficial interests and balances of cash in account.
6	The trust ledger is made up of the required trust ledger accounts. • For each beneficiary, • The trustee, and • The trust (bank) account.

Ledger account requirements

	Functional requirements
1	The ledger account is named in a way that clearly identifies the entity to which is relates. • For each beneficiary, • The trustee, and • The trust (bank) account.
2	The ledger account posting includes the date the 'transaction' occurred (not the date it is posted to the ledger, if different).
3	The ledger account posting includes the reason for the transaction. • Description/Details/Notes/Journal Narration (Note: there are no prescribed requirements here other than application of standard accounting practices).
4	The ledger account posting includes the amount of the transaction.
5	The ledger account posting identifies the running balance of the ledger account after each transaction entry.

Trust (bank) ledger account requirements

	Functional requirements
1	The trust (bank) ledger account records incoming money (deposits to the trust account) as a debit.
2	The trust (bank) ledger account records outgoing money (withdrawals from the trust account) as a credit.
3	The trust (bank) ledger account does not record transactions paid from the head contractor's general business account(s).
4	Any account keeping fees debited from the account or interest credited to the trust account is recorded in the trust (bank) ledger account (with the corresponding balancing entry in the trustee ledger).

Trustee and beneficiary ledger account requirements

	Functional requirements
1	The trustee ledger account records an increase in beneficial interest as a credit.
2	The trustee ledger account records a decrease in beneficial interest as a debit.
3	The trustee ledger account postings are balanced in a corresponding ledger account entry in the same ledger for the relevant trust.
4	The beneficiary ledger account records an increase in beneficial interest as a credit (e.g. payment claim received for PTA; retentions withheld for RTA)).
5	Each beneficiary ledger account records a decrease in beneficial interest as a debit (e.g. payment made to beneficiary, payment schedule certifying lesser amount).
6	The beneficiary ledger account postings are balanced in a corresponding ledger account entry.

End of month reconciliation statement requirements

Note: a monthly reconciliation statement consists of two distinct reports with the purpose of identifying any accounting or balance errors in the ledger accounts. The trial balance is presented first (comparing the balances of each individual ledger account of the trust) and a reconciliation to the bank account second (comparing only the trust (bank) ledger account with the financial statement). Software may be able to reconcile ledger accounts at any time for early identification and correction of imbalances, however the trustee, in accordance with the legislation, must still ensure they prepare the required end of month reconciliation reports for compliance purposes.

Where an imbalance is identified at the end of the month due to an entry error, this can also be corrected (and the end of month reconciliation reports recreated to show the corrected balances).

Where an imbalance is identified at the end of the month due to other reasons, the imbalance must be presented.

	Functional requirements
1	The software can facilitate the preparation of the end of month reconciliation statement including the trial balance statement and a bank account reconciliation.
2	The reconciliation statement denotes when it was performed. • Trustee is required to prepare within 5 business days after the end of the month.
	TRIAL BALANCE
3	The reconciliation statement shows the closing balances of all ledger accounts at the end of the month.
4	Where a monthly trial balance does not balance (the value of all credit entries equals the value of all debit entries), the imbalance is shown. • Imbalances can be corrected, and the trial balance completed again.
	BANK RECONCILIATION
5	The reconciliation statement can show the balance as per the bank statement at the end of the audit period as a dollar amount.

	• Regardless of when it is performed after the end of the month.
6	The reconciliation statement can show any deposits in the ledger accounts that are not in the bank statement as a dollar amount. • If none then display $0.00. • Display each entry detail with a dollar amount. • Note: if operating on a cash/actual accounting basis for postings to ledger accounts this adjustment may not be required.
7	The reconciliation statement can show any withdrawals in the ledger accounts that are not in the bank statement as a dollar amount. • If none then display $0.00. • Display each entry detail with a dollar amount. • Note: if operating on a cash/actual accounting basis for postings to ledger accounts this adjustment may not be required.
8	The reconciliation statement can show the reconciled bank statement balance as a dollar amount (including the adjustments for the deposits/withdrawals in the ledger account not in the bank statement, as per 3 and 4 above).
9	The reconciliation statement shows the trust (bank) ledger account balance at the end of the audit period as a dollar amount. • This is the total balance as shown in the trust (bank) ledger account and NOT for the full trust ledger due to the different nature of the trust accounts. • This will balance with the total reconciled bank balance to confirm all deposits and withdrawals have been correctly posted to the trust account ledger.

Software capability requirements

Trust accounting solutions would need to have the following capabilities to support the **trustee's** compliance with the legislation.

	Functional requirements

1	Relevant transactions affecting the balance of trust or balance of beneficial interests are recorded in the relevant ledger account within three business days after the transaction occurs.
	
	Where transaction data cannot be automated to post to the ledger within prescribed timeframes, a manual workaround would need to be offered to the trustee so they can comply with the Act.
	
	• Payment claim given date = Day 0
	
	    o e.g. payment claim given Thursday 4 July 2024.
	    o The transaction must be recorded on or by Tuesday 9 July 2024.
	    o Thursday = Day 0. Friday = Day 1. Monday = Day 2. Tuesday = Day 3.

2	Trust records (including data) created and stored by the software solution must be retained and accessible for a period at least 7 years after the trust is dissolved.

3	Trust ledgers can be accessed for audit purposes regardless of project activity status. • Audit activities include and not limited to; running ledger reports, extracting data, or producing trust records for any requested audit.
4	Balance or posting errors cannot be deleted and must be corrected in a way that creates a traceable record. • e.g. Reversing a posting to any ledger account. • This is the only accepted way to correct an error in the ledger posting.
5	There are no references to Project bank accounts (PBA) for any **trust ledger** or **ledger account.**
6	There are no references to PBAs in the end of month **reconciliation statement.**
7	The software solution can produce trust record reports or extracts for specific date ranges. • e.g. 1 March 2024 – 31 March 2024.
8	The software solution can produce a trust record report or extract for particular beneficiary information for specific date ranges.

9	Any trust record outputs produced by the software solution should name files (and document titles) using an identifiable format;
	
	 • Record Type – Project Name – Date Range
	
	 • Record types;
	
	     o Project trust account ledger
	     o Retention trust account ledger
	     o Monthly reconciliation statement

Optional requirements

There are a range of related obligations on the trustee that have the potential to be automated through software. Trust accounting solutions may offer the following options to support the trustee's obligations.

Not offering these options will not impact a solution's ability to produce trust records as prescribed by the Act.

	Functional requirements
1	The software solution can show an amount that is any or all of the following: • Available to be withdrawn by the trustee (surplus balance in bank account greater than amounts liable to be paid to subcontractors as per section 10B or after all beneficiaries have been paid) • Shortfall that must be topped up by the trustee (shortfall between balance of account and amounts liable to be paid to subcontractors)
2	A third party (e.g. regulator/auditor/administrator) can be delegated access to the software solution for audit or oversight purposes.

3	The software solution can generate reminders/alerts for the user about upcoming compliance activities, including (for example)
	• trial balance,
	• monthly reconciliation statement, or
	• balancing errors.

Software considerations and other matters

The following requirements should be considered by software providers as they have direct and indirect impacts on a trustee's obligations for trust records. The department may include a note for any published solutions based on the provided responses.

	Functional requirements
1	Ledger accounts show an opening and closing balance.
2	If the solution produces remittance notices for subcontractor beneficiaries, they must include the information prescribed by regulation. • Project trust payments to beneficiary o The amount that was or is to be paid to the beneficiary, o Identification of the payment claim for the payment, o The name of the account the payment was or is to be paid, o The BSB where the payment account is kept, o The account number for the payment amount, and o The date the payment was or is to be paid. • Depositing retention amount for subcontractor beneficiary o Amount deposited in the account, o Identification of the payment claim for the deposit, o The name of the account the deposit was made, o The BSB where the payment account is kept, o The account number for the payment amount, o The date the payment was or is to be paid, and o Total retention amounts held in the account for the beneficiary.
3	Where the software solution produces supporting statements, they must include the information prescribed by regulation. • A declaration that all subcontractors have been paid all amounts owed to them by the claimant at the date of the payment claim, or • Identify each subcontractor who has not been paid the full amount owed to them by the claimant at the date of the payment claim including; o The subcontractor's name, o The amount still unpaid, o The details of the unpaid payment claim for the subcontractor, o The date the subcontractor carried out the construction work or supplied the related goods and services, o The reasons the amount was not paid in full, and

	• That all other subcontractors have been paid the full amount owed to them by the claimant.
4	Where the software solution receives payment claim data from a third-party payment claim solution, relevant transactions would need to be posted to the ledger account within three business days after the transaction occurs to enable trustee compliance. • This includes the initial payment claim (on the date it is received) and then any changes to the assessed amount (e.g. via a payment schedule).
5	Where the software solution **must** interface with other software to produce trust records (e.g. a project management solution, general accounting solution) there are not impediments to posting transaction data to the trust ledger within 3 business days of the transaction occurring or to the correct balancing of ledger accounts. Note: You may import test scenarios through complimentary software to ensure the trust record outputs are within the legislated timeframes. Providers will self-assess this activity and confirm the legislated timeframes have been met.
6	Discontinuation – If a customer discontinues service with the software solution, they must be informed of potential impacts to the ongoing access to their data and/or trust records and obtaining trust records stored by the solution. Note: It is a trustee's obligation to ensure all trust records are kept for a minimum of 7 years from the dissolution of the trust. It is recommended software solutions provide an offboarding process or procedure that may include but is not limited to; • exporting copies or reports of the trust records, or • providing access to a "read only" version of the software in perpetuity.

Managing source trust records (Optional)

In addition to maintaining trust ledger records, a trustee is required to also keep a range of prescribed source documents for the trust. The following table provides a list of the relevant trust documents.

The Queensland Building and Construction Commission (QBCC) is responsible for ensuring industry compliance with the trust account requirements. The QBCC carries out regular approved or risk-based audit programs to ascertain compliance by trustees with their obligations. To inform the audit process the QBCC may request a range of primary and secondary source documents related to the administration of trust accounts, and under the BIF Act these documents must be kept by the trustee for a minimum of 7 years.

Storing and securing these prescribed documents is the responsibility of the trustee and not software, however software may be able to facilitate and/or streamline the storage and management of related trust records (including compiling into a shareable file format for audit purposes).

Not offering these options will not impact a solution's ability to produce trust records as prescribed by the Act.

	Software questions
	Does or can the software upload, manage or store for the following types of documents:
1	Copies of contracts and other contracts related documents (e.g., letter of acceptance) for which the project trust is required and documents relating to any variations or amendments to the contract?
2	Copies of all payment claims (e.g., invoices) made to the principal for the contract during the audit period?
3	Copies of all supporting statements (BIF Act, s75) given to the principal declaring all subcontractors had been paid or detailing any unpaid amounts to subcontractors?
4	Copies of any notices made by or given to the trustee in relation to the trust account?
5	A copy of each first-tier subcontract contract and purchase order to the contract and details of any variations/amendments to any of those subcontracts?
6	Copies of payment claims (e.g., invoices) given by subcontractor beneficiaries for the subcontracts and any other parties paid from the project trust account?
7	Copies of all payment schedules (BIF Act, s69) given to subcontractor beneficiaries in response to payment claims?
8	Copies of financial institution statements for the trust accounts?
9	Payment instruction files used to direct payments (e.g. bulk payments) from the trust accounts?
10	Can the above documents be linked to particular trusts or projects?
11	Can the above documents be retrieved in PDF format for inspection by an auditor and/or shared securely with an external party for audit purposes?

Software self-assessment process

To ensure software solutions support industry to comply with the trust record keeping requirements, software providers may wish to self-assess their trust accounting solutions against the minimum requirements checklist and test scenario.

Note, while it is not mandatory that the self-assessment process be completed, to be listed on the DHPW website (see more information below) the self-assessment checklist and test outputs will need to be shared with the department.

Checklist

The checklist is a summary of the minimum functional requirements detailed in this document to assist with the self-assessment process.

Download the checklist document and complete each section as instructed.

Test scenario and dataset

The test scenario and dataset provide transaction data for an example 'project' that can be used to test and validate the software solutions' ability to produce the required trust records (ledger accounts, trial balance and reconciliation statement). Running the test scenario will allow providers to better identify any gaps in their solution before making the solution available to the market.

Download the test scenario, data set and test solutions and run the test scenario through the software solution.

Department workshops

If a provider has any questions or issues with the functional requirements or test scenario/test outputs and/or requires support with resolving functional gaps in their solution they may request a workshop with DHPW to clarify the trust record keeping requirements.

Please email SecurityOfPayment@epw.qld.gov.au for support.

Publishing available solutions

DHPW will be supporting building industry awareness of the available trust accounting solutions by publishing a list of providers and their solutions. This information will be published where the provider has successfully completed the self-assessment process and requested publication on the department's webpage.

Requesting publication

To request publication the provider must email the DHPW and provide the following information about the software solutions (this information will be published on the DHPW website):

- Digital software provider name
- Product/Software solution name – Version number [x.x]
- Description of solution [Max 2 sentences]
- Phone: [DSP Contact number]
- Email: [DSP contact email]
- Website: [DSP website]

For the request to be accepted, it must be accompanied by copies of the completed Checklist and copy of the trust records outputs produced from the test scenario.

Please email SecurityOfPayment@epw.qld.gov.au to request publication.