



Money Laundering - Your Solicitor and you

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THE LAW SOCIETY
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With effect from 15th December 2007 solicitors and other legal service providers - Estate Agents; Accountants; Auditors; dealers in high value goods; casinos and financial institutions are subject to the Money Laundering Regulations 2007.

These Regulations and the Proceeds of Crime Act 2002 are the United Kingdom's primary anti-money laundering and counter terrorist financing provisions. They arise from the international fight against terrorism; drug dealing and serious crime, including tax evasion and benefit fraud. Governments in the United Kingdom and Ireland, Europe and the United States have united in promoting legislation aimed at preventing money laundering and terrorist financing. Money laundering is the process whereby the proceeds of these illegal activities are laundered back into the legitimate finance system.

Both pieces of legislation place onerous requirements on all solicitors to make disclosure to the National Crime Agency (NCA) if they have knowledge or suspicion, or in some circumstances should reasonably have had knowledge or suspicion, that clients have instructed them to carry out transactions in relation to property that may have been obtained by, or is, the proceeds of crime. This includes, for example, not only the proceeds of terrorism; drug dealing and racketeering; but also tax evasion, benefit fraud and minor criminality. To put it simply, solicitors are required to inform on their clients. A solicitor who assists a client in transactions involving proceeds of crime or terrorist financing is him or herself guilty of a criminal offence and liable to a jail sentence. Despite forceful

opposition from the legal profession across Europe, including the United Kingdom and Ireland, Governments in Europe and the US were determined to proceed with the money laundering legislation despite this intrusion into the solicitor/client relationship. Unless in limited circumstances where you are seeking legal advice in relation to actual or potential litigation or in relation to the defence of a criminal charge, the time honoured duty of a solicitor to keep his client's business confidential and the concept of solicitor/client privilege have been weakened. Solicitors will have to ascertain the source of any monies or other property which you require them to transfer or convey. They are not able to avoid penalties by turning a blind eye. If they have any knowledge or suspicions about the legitimacy of the source of funds or that property, they are required to make a confidential disclosure to the National Crime Agency (NCA). They are also required to make disclosures if they suspect a client has received "under the counter monies" to evade paying Stamp Duty.

The legislation also means that solicitors will have changed other ways in which they may have dealt with you in the past. They will not take cash from you except in exceptional circumstances and in strictly limited amounts. They are required to verify your identity in very much the same way as you will be used to your Bank or Financial Institution doing, e.g. by the production of photo I.D. and utility bills. They are required to keep records of their verification procedures and of the transactions which they have undertaken for you and to justify to the authorities any decisions they may have taken not to disclose.

Solicitors are concerned to ensure that the high levels of service which they give you will be maintained, despite this intrusion into their relationship with you. They must however comply with the law and ask you to understand the onerous statutory obligations placed upon them.