Anti Money Laundering - Client Guide

A global problem | Identity issues | Proving identity

What could be affected?

The Anti-Money Laundering legislation catches many activities you might not immediately think of, as well as the more obvious ones such as robbery, fraud, drug-dealing, or other obviously illegal activities.

The following situations may involve the creation of criminal property, and may involve suspicious circumstances that will trigger the legislation:

- Any form of tax evasion (such as VAT or Stamp Duty Land Tax). Not agreeing to pay the full amount of SDLT due on a transaction, not declaring other consideration not mentioned in the transfer, refusing to pay the tax due, and so on
- Using a property in breach of a planning enforcement notice. For example, there have been cases where landlords of illegal HMOs have had the property sold by the planning authority and all the rent received confiscated from the proceeds of sale, under the Proceeds of Crime Act 2002
- Selling a property but refusing to carry out an asbestos survey, where required to do so by law.
- Buying a property at an artificially inflated price, so as to get a bigger mortgage on it
- Not having an Energy Performance Certificate for a property, when required to produce one by Trading Standards.

As you can see, the legislation cover a very wide range of actions that might not obviously be 'criminal activity'.

What are 'Anti Money Laundering' checks?

Your conveyancer is required by law to carry out what is known as 'Client Due Diligence' (or 'CDD') on every client. A conveyancer will commit serious criminal offences if they fail to follow the extensive obligations in the Anti-Money Laundering and Counter-Terrorist Financing legislation.

Conveyancers have been jailed for turning a blind eye to suspicious circumstances. We are also required to notify any suspicious circumstances to the National Crime Agency, without our clients' consent or knowledge. We would also commit the offence of 'Tipping Off' if we do anything that would alert our clients that we have made a notification. As a result, conveyancers take this very seriously indeed.

How big is the problem?

Money laundering is the world's third largest business, being worth perhaps a couple of trillion dollars a year. The Treasury has estimated that, in the UK alone, at least £10 billion a year is laundered throught the regulated sector, meaning conveyancers, accountants, banks and estate agents. Of course, the precise figure will never be known. Property transactions are very suitable way of laundering criminal money, and are often used by money launderers as a way of hiding their cash.

Who is affected?

Conveyancers must take steps to verify the true identity of all clients, without exception, even though they may have acted for them for years. Usually, we will expect to see a driving licence or passport, and some other form of verification, such as utility bills to link you to the property. We may also carry out electronic verification using external companies and agencies to satisfy ourselves that you are who you claim to be.

Source of Funds Enquiries

We also need to be satisfied that there is nothing unusual about the source of the money you are using to buy the property (known as 'Source of Funds' enquiries). Please do not be offended by this, or think that it is none of our business, as we are required to do this by law. For example, a person of modest means suddenly buying a million pound property for cash could be as a result of an inheritance, or a lottery win, but it could also be as a result of criminal activity.

Constant monitoring

Our obligations continue through the entire transaction, not just at the beginning. We have to consider constantly whether anything is, or becomes suspicious, This includes changes in the attitude of the client to the transaction, sudden and unexplained urgency, changes of parties or price, or where the money is coming from or going to, etc.

Extended CDD

Conveyancers have to apply what is know as Extended Customer Due Diligence, in some cases. Where this applies, we will need to go further to check your identity using other methods of identity verification. This may include electronic searches and enquiries. This will apply where, for example, we do not meet you face-to-face at the start of the transaction. It will also be required where you (or your family or associates) are involved at a senior level in politics or industry.

Examples of Documents proving identity

We will usually want at least two sources of verification from you. We also need to be sure that you are the person named in the documents. There are other recognised documents that may also be used to verify your identity if you do not have any of these:

- current signed passport
- birth certificate
- current photocard driver's licence
- residence permit issued by the Home Office
- benefit book or original notification letter from the DWP
- council tax bill, utility bill or statement,
- a recent original mortgage statement from a recognised lender
- local council or housing association rent card or tenancy agreement
- HMRC self-assessment statement or tax demand
- house or motor insurance certificates

Companies, charities, estates and trusts, etc.

There are also special rules we have to follow when acting for companies, partnerships, clubs, associations, trusts, the estates of deceased persons, and so on.

As well as checking the bona fides of the company representatives, or trustees, we may also have to identify who controls or owns the shares in the organisation. In relation to estates, trusts and charities, we may need to identify not just the trustees, but also consider who are the beneficiaries.

The three steps in Money Laundering

There are three stages, placement, layering and integration.

Placement is usually placing money from crime in the financial system. This is the stage where money laundering is easiest to detect. Banks are strictly controlled, so conveyancers are targetted by money launderers, as money received by us can then be used in the next stage.

Layering is where once in the financial system, the origin of the money is obscured by passing the money through a series of transactions. These often involve multiple entities such as companies and trusts. Detection can be difficult.

The final stage is **Integration**, where the criminal is able to make the funds re-appear as legitimate business assets. Money launderers may use conveyancers to buy properties, set up trusts, and so on. This is the most difficult stage of money laundering to detect.

As can be seen, conveyancers have a key role to play in identifying possible money laundering. Therefore we are required by law to exercise extreme vigilence over all transactions that we are involved in.