

Identity checks & AML - Client Guide

Anti Money Laundering checks | Source of funds | Proving your 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 buying property with the proceeds of robbery, fraud, drug-dealing, or other obviously illegal activities.

The following situations may involve the creation of criminal property, and is covered by the legislation:

- Any form of tax evasion (such as avoiding VAT or Stamp Duty Land Tax).
- Not paying the full amount of SDLT due on a transaction by paying part of the price direct to the seller.
- Using a property in breach of a planning enforcement notice. For example, there have been cases where landlords of illegal HMOs have had their property seized and sold by the planning authority, and all the rent received confiscated from the proceeds of sale, under the Proceeds of Crime Act 2002.
- Buying a property at an artificially inflated price, so as to get a bigger mortgage.

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 through the regulated sector, meaning conveyancers, accountants, banks and estate agents.

Property transactions are often used by money launderers as a way of hiding their cash, as any subsequent sale of the property will provide an apparently legitimate reason for the existence of the money.

All property professionals are therefore required to carry out checks on identity at the start of a transaction, and to keep an eye out for anything that could indicate fraudulent activity. They are required to notify the police if they suspect that there may be criminal activities going on, or where the purchaser of a property might be using the proceeds of crime.



What are Anti Money Laundering ('AML') checks?

The Fourth EU Money Laundering Directive was brought into UK law in June 2017 by the Money Laundering, Terrorist Financing and Transfer of Funds Regulations. These regulations require your conveyancer to carry out what is known as 'Client Due Diligence' (or 'CDD') on every client **before** they start work on your transaction. This involves not just verifying our clients' identities, but also involves considering all the circumstances of the transaction, the client's financial position, and the source of the money used to buy the property.

We are also required by law to secretly 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 tip-off our clients that we had made any such notification.

Conveyancers will commit serious criminal offences if they fail to follow the extensive obligations in the regulations, and have been jailed for turning a blind eye to suspicious circumstances. As a result, conveyancers take this very seriously indeed. The regulations require banks, estate agents and mortgage advisers to each carry out similar checks, so you may have to prove your identity to a number of people involved in the transaction, not just to one of them

Electronic verification and privacy

Conveyancers must take steps to verify the true identity of all clients, without exception, even though they may have acted for them for years. For example, 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 that you are selling.

We may also carry out electronic verification using external companies and agencies to satisfy ourselves that you are who you claim to be. We are required to keep this information for 5 years from completion of the matter. We must then destroy any personal data in the record, unless you agree that we may keep it, or where we are required to keep it for longer by our regulator, or the courts.

Where is the money for your purchase coming from?

We also need to be satisfied that there is nothing unusual about the proposed transaction. We need to know about your general financial situation - this is known as 'Source of Wealth' enquiries. We also need to know where the money is coming from to buy the property - this is known as 'Source of Funds' enquiries. We also need to understand why you are buying or selling the property, for example as an investment, or for you to live in. Please do not be offended by these questions, or think that it is none of our business. We are required to do this by law.





Money Laundering

There are three stages in money laundering - 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 targeted 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 vigilance over all transactions that we are involved in.

No Cash

We cannot accept cash from you as part of the purchase price, nor can you pay cash into our bank account. Money has to be transferred to our account from an existing regular bank account.

Also, all the purchase money for a property has to go through us, and you cannot pay part of it direct to the seller.

Other identity information

A person's identity comprises a number of aspects, including their name, current and past addresses, date of birth, place of birth, physical appearance, employment, financial history, and their family circumstances. Please be prepared to answer questions from us on these subjects.

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 the money could also have arisen from criminal activities.

We also need to verify the identity of anyone who is 'behind' the purchase, such as a relative or associate that has asked you to buy a property for them - but in your name, or where you are buying the property to hold it 'on trust' for someone else.

Where you are selling the property of a deceased relative, we will need to verify the identities of the executors or administrators of the deceased's estate.

Constant monitoring

Our Anti Money Laundering obligations continue through the entire transaction, not just at the beginning. We have to constantly consider whether anything is suspicious, or becomes suspicious.

This includes, for example, changes in the general attitude of our clients to the transaction, sudden and unexplained urgency, or changes to the parties to the transaction, or the price. This will also include any changes, such as where the mortgage or the balance of the money to buy the property is coming from, and changes to where the sale money is going to.

'Enhanced Client Due Diligence'

Conveyancers have to apply what is known as 'Enhanced Client Due Diligence' in some cases. Where this applies, we will need to take more steps to check your identity, using other methods of identity verification. This may include electronic searches and enquiries. This may be necessary where we do not meet you face-to-face to verify your identity.

It may also be required where you (or your family or associates) are involved at a **senior** level in national politics, the military, the judiciary, national government (but not local government) or international business. Please tell us if you think that this might apply to you.

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 identities of the organisation's directors, representatives, or trustees, we may also have to identify who controls the organisation, and who owns the shares in the organisation.

In relation to estates, trusts and charities, we may need to verify not just the trustees, but also consider the identity of the beneficiaries to a trust or will.

What Documents do I need to produce?

We will usually want at least **two** sources of verification from each client, to verify their **name** and **date of birth** and their **current address**, for example:

- A government document that verifies your full name and date of birth
- Another supporting document (which can be a government document) that verifies your full name and your current address.

We also need to be sure that you are the person named in the documents, and so we prefer documents with a photograph, such as passports or Photo-card driving licences.

For example, a passport/Photo-card Driving Licence, plus a utility bill or mortgage statement for your current house would normally be sufficient for us to confirm your identity if we meet you face-to-face.

