

# MANUAL 'V' ONLINE

Much has been written in the legal press lately about the linked issues of Money Laundering and Client Identity Verification, and the role of the practicing solicitor in the identification and reporting of suspicious individuals and financial transactions.

Whilst legislation (Money Laundering Regulations Act, Proceeds Of Crime ACT) is in place and the Joint Money Laundering Steering Group (JMLSG) have issued several directives on the subject there are still several grey areas and pitfalls that could trap the unwary and innocent solicitor.

Getting it wrong is no longer an option as several solicitors have found out recently. As ever ignorance of the Regulations is no excuse - as at least two members so the profession have found out to their cost (and liberty).

The Money Laundering Regulations 2003 stipulates:

- (3) A must maintain identification procedures which -
- (a) Require that as soon as is reasonably practicable after contact is first made between A and B -
- (i) B must produce satisfactory evidence of his identity; or
  - (ii) Such measures specified in the procedures must be taken in order to produce satisfactory evidence of B's identity;

For the purposes of the Regulations 'satisfactory evidence of identity' is evidence which is reasonably capable of establishing (and does in fact establish to the satisfaction of the person who obtains it) that the applicant for business is the person he/she claims to be.

Solicitors have an obligation to obtain and record 'satisfactory' evidence of the identity of the client and to report 'suspicious circumstances' but the grey areas arise as neither of these terms is defined accurately and completely within either the legislation or the regulations.

In response practices appear to be taking one of two approaches:

## TRADITIONAL MANUAL METHOD

The photocopying of relevant client documentation, usually a passport and utility bill. Whilst this 'bare bones' approach is simple to implement and administer it is labour intensive and does have limitations. It is not particularly convenient for clients (how many of us carry our passports and utility bills with us) and some clients (e.g. those without passports, people working overseas or in the services, clients living or working some distance away) are not well served by this method.

Solicitors should remember that it is an offence to carry out work prior to obtaining and recording satisfactory proof of ID, and that submitting an offer of work constitutes carrying out work.

## ONLINE IDENTITY VERIFICATION

There are a number of systems available which provide enhanced assistance in the areas of money laundering and client verification. These work best when integrated with the practices in-house practice management system as the process can be completed (in seconds) before accepting the client or the transaction.

These online systems search a wide range of databases using base data obtained during the initial client meeting (title, forename, surname, house number and postcode, date of birth, driving licence number, NI number, and passport number).

The system checks this data against a wide range of (positive and negative) data sources, including Full Electoral Roll, Royal Mail

Postcode Address File, UK Investors, Adverse Public Data and Share financial records.

The returned search result contains additional information that, if required, could be used by the solicitor to further verify that the potential client is genuine. Search results are automatically stored against the client record as an audit trail and proof that the solicitor acting has met his/her obligations.

## IN CONCLUSION

With increasing pressure upon solicitors to 'get it right or face the consequences' online identity verification must be worth examining.

It is quick, simple to use and greatly de-risks the take on of new client business. It is also extremely client-friendly and particularly useful in ideal potential high-risk 'new client not present' situations. Online verification is much less time consuming and accordingly less costly than the manual method.

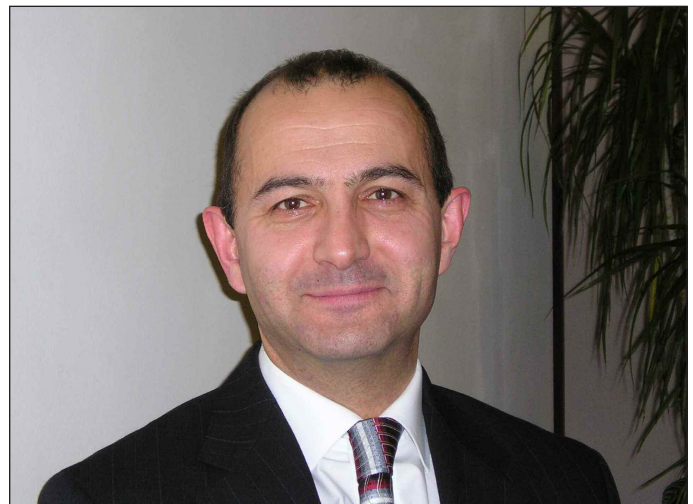
Another fact supporting the move to online verification is that compliance and reporting requirements are extremely unlikely to diminish in the future. Indeed the converse seems to be the case.

The new Money Laundering Regulations, effective December 15th 2007, contain a requirement to check all prospective clients identified as high risk against the Politically Exposed Persons register. This search is only available online, from a limited number of sources.

There is also a new requirement for MLRO's to report transactions where they suspect funds may include sums of unpaid tax - even if the business producing the profits is legitimately trading (see Court of Appeal judgment in *R v I K* (2007) EWCA Crim 491).

Whichever route is taken (manual, online or a combination thereof) the logging and auditing of returned results within the practice management system is vital. It ensures the practices 'beleaguered' MLRO can speedily and easily monitor regulatory compliance across the whole practice, and report accordingly.

Pro-active monitoring and control is essential to ensure practices acting in good faith do not unwittingly fall foul of changing regulations.



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