

If in doubt, ask, then ask again



Ignorance can be as dangerous for solicitors as dishonest and deliberate participation in money laundering, says **John Gould**

Conveyancers are now a lot busier than they were a year or two ago. Rising prices in many areas mean that the pressure is on solicitors to work quickly. New staff, who may relieve the pressure, are much harder to recruit.

These are the conditions in which corners can be cut but one in particular is dangerous. It is a hairpin on a mountain road: money laundering.

It will come as no surprise that high standards are expected of solicitors for the very reason that their role as gatekeepers makes them particularly valuable to those wishing to launder the proceeds of crime. There are a number of cases in which a solicitor's participation is dishonest and deliberate.

Conventional transactions

In one case, a solicitor laundered US\$37m resulting from the unlawful dealings of a Nigerian official, for which the solicitor was sentenced to seven years in prison.

In other cases, however, a solicitor may commit an offence by ignoring essentially a single piece of information in an otherwise conventional transaction. A solicitor does not need to be dishonest or lack integrity.

One solicitor pleaded guilty and was convicted of five counts of failing to report under section 330 of the Proceeds of Crime Act 2002. It was not on the basis that he knew or suspected that his client was engaged in money laundering but that he had reasonable grounds to suspect.



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There was no suggestion of dishonesty on the part of the solicitor, but he had accepted, without further enquiry, an incorrect explanation from his client's wife as to why his client was in custody. None of the other circumstances were suspicious.

After a process lasting two years, he pleaded guilty to avoid the risk and trauma of a jury trial

and received four months imprisonment suspended for 12 months. That was the most lenient sentence possible.

Reasonable grounds to suspect is the lowest level of criminal responsibility but may arise from quite simple information, which may be neither emphasised nor highlighted. The sale price of a property may simply appear to be too cheap or the funds may arrive at the last minute from an unexpected source.

It doesn't take much for it to be the solicitor's duty to enquire and investigate. If investigation is required, the timetable of the transaction will not provide any excuse for not doing so.

No excuse

Other excuses that won't help include pressure of work, depression, reassuring external legal advice, the participation of apparently reputable third parties or client references. Even a plausible and honest source of funds may not help if there is reason to suspect that another criminal source could be involved.

Once a police investigation begins, it is too late to become suspicious. Serving a production order to obtain the transactional file may be the start of a long, hard road for the solicitor.

Attempts to 'lose' documents or 'edit' files will only make matters much worse. A solicitor who did just that received 12 months in prison.

The executive conducting the transaction, who may have established a relationship with the client and be under pressure not to disrupt a chain of transactions, may be too ready to accept or assume innocent explanations for issues that require investigation.

If in any doubt about whether there is a reason to suspect, it would be wise to ask your most cautious senior colleague. Then, if reassured, ask another one.

The need to ask the question may be enough to mean that a report should be made. **SJ**



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