

## Guidance

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Published: 13 January 2025

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## Status

This guidance aims to bring attention to the potential threat posed by sham litigation within the legal sector, so that lawyers can take appropriate steps to protect themselves and their firms.

This guidance uses 'must', 'should' and 'may' throughout - with the following meanings:

- **Must:** a requirement in legislation or a requirement of a regulation or other mandatory provision. You must comply unless there are specific exemptions or defences provided for in relevant legislation or regulations.
- **Should:** good practice for most situations. These may not be the only means of complying with the requirements and there may be situations where the suggested route is not the best option. If you do not follow the suggested route, you should be able to justify to us why your alternative approach is appropriate, either for your practice, or in the particular instance.
- **May:** an option for meeting your obligations or running your practice. Other options may be available and which option you choose is determined by the nature of the individual practice, client or matter. You may be required to justify to us why this was an appropriate option.

## Who is this guidance for?

All SRA-regulated firms and those working within them, solicitors (including in-house solicitors), registered European lawyers and registered foreign lawyers.

All firms are subject to and have obligations under the Proceeds of Crime Act 2002 (PoCA), regardless of the service they provide. These obligations apply to those firms that are both within scope and out of

scope of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs).

PoCA imposes additional requirements on those in scope of the MLRs.

## **Purpose of this guidance**

This guidance is to help you understand how to prevent financial crime and protect your firm from being vulnerable to sham litigation.

## **Introduction**

Involvement in sham litigation may pose a risk of money laundering to you and your firm. The three principal money laundering offences are defined in sections 327, 328 and 329 of PoCA. A person commits an offence if they:

- s.327: conceal, disguise, convert, transfer or remove criminal property from England and Wales, Scotland or Northern Ireland
- s.328: enter, or become concerned in, an arrangement they know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another
- s.329: acquire, use or have possession of criminal property. This need not involve any more than simply holding funds or assets.

These offences do not need to involve money at all and can involve any proceeds of crime.

For example, under s.327, 'property' includes:

- money
- real, personal, heritable or moveable property
- intangible or incorporeal property. This could, for example, include intellectual property rights, cryptocurrency or non-fungible tokens.

We recommend that firms make sure that staff in all departments not subject to the MLRs have at least a basic knowledge of the risks of money laundering.

## **How does sham litigation work?**

In these schemes, criminals or their associates might orchestrate fake disputes and instruct lawyers to pursue a claim in the courts. The outcome, whether a judgment or a settlement agreement, serves as a front to the transfer of illicit funds or assets. This risk is heightened due to the sector's involvement in high-value transactions, and the handling of client funds. The nature of legal work also allows the true ownership of assets to be obscured.



The legal sector's vulnerability to sham litigation for money laundering means that firms must remain vigilant. Litigation is not an activity within scope of the MLR 2017 which makes it attractive to money launderers. This exclusion means that the requirements of the MLR 2017, for example verification of identity, do not apply to purely litigation work. Law firms, however, are still within scope of PoCA and should be capable of identifying red flags, as well as investigating the circumstances further to prevent their services from being misused in sham litigation.

Law firms are attractive to those seeking to engage in sham litigation, as they can provide the opportunity for:

- Concealing other crimes, or diverting attention from their true motives.
- Concealing illicit funds, making it appear as if the money comes from a legitimate source such as a legal dispute.
- Layering money which can make it challenging to trace the origins of the funds by burying its origins under several layers of transfers and transactions.
- Establishing a paper trail through engagement with law firms which can legitimise the movement of funds. This makes it difficult for authorities to detect the underlying criminal activity.
- Integrating illicit gains into the legal system by presenting them as settlements into court or awards resulting from litigation.
- Avoiding identification and verification requirements by acting outside of the scope of the MLR 2017, or the increased scrutiny involved in trusts, companies and real property.

Below are some key indicators we have identified which can help to spot potential sham litigation. Keep in mind that this list is not exhaustive, so it is important for firms to remain alert beyond these indicators.

- Unusual client information and identity verification. Scrutinise client information for unusual elements, such as offering identification evidence for the opposing party. Ensure consistency in names across emails, social media, and identification documents.
- Knowledge of law firm processes. Clients who display an unusual familiarity with internal law firm processes, such as inquiring about matter numbers.
- Clients instructing firms far from their home address. Consider the client's geographic location in relation to the law firm, and whether it makes sense for them to instruct you rather than somebody closer.
- Unsolicited contact. Remain cautious towards unsolicited contact, particularly from individuals who the claim is against.
- Payment preferences and settlement urgency. Exercise caution with clients who:
  - prefer payments to third parties through the law firm
  - use multiple payment addresses



- show unusual urgency in settling cases, especially when debtors are willing to settle early or outside of legal processes.
- Clients chasing very old debts.
- Unreliable appointment attendance. Take note of clients who consistently miss appointments without notice.

## How to protect yourself

To effectively protect your law firm from the risks of sham litigation, consider the following:

- Your firm must:
  - identify your clients, in line with paragraph [8.1 of the SRA Code of Conduct for individuals](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-81) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-81>], and be satisfied that the client is who they claim to be. This is different from client due diligence which involves verifying the information given by a client and entails various background checks.
  - keep detailed records, in line with [Rule 8.1 of the SRA Accounts Rules](https://higher-rights.sra.org.uk/solicitors/standards-regulations/accounts-rules/#rule-81) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/accounts-rules/#rule-81>], and make sure to maintain accurate records of all credit card transactions, including the address of the cardholder.
  - scrutinise firm account policies and procedures, in line with [paragraph 2.1 of the SRA Code of Conduct for Firms](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-21) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-21>]
  - if you have suspicions that money laundering has taken place, or is about to take place, submit a suspicious activity report (SAR) to the National Crime Agency, in line with ss. [337](https://www.legislation.gov.uk/ukpga/2002/29/section/337) [<https://www.legislation.gov.uk/ukpga/2002/29/section/337>] or [338](https://www.legislation.gov.uk/ukpga/2002/29/section/338) [<https://www.legislation.gov.uk/ukpga/2002/29/section/338>] PoCA and [our warning notice](https://higher-rights.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-suspicious-activity-reports/) [<https://higher-rights.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-suspicious-activity-reports/>]. You should consider reporting any issues relating to fraud or other criminality in the same way.
- Your firm should:
  - involve the COLP or money laundering reporting officer early if any aspect of a case appears suspicious. You might also wish to seek advice and perform a 'sense check' with colleagues to gain different perspectives on a case, as this can help to spot concerns.
  - regularly refresh SRA Accounts Rules and AML training for all staff members to make sure they are up to date with the latest procedures and can recognise signs of sham litigation. While litigation is not in scope of the MLR 2017, many of the same indicators apply.
  - regularly reassess risk management protocols specifically related to sham litigation. Make sure that all policies and

- procedures are current and effectively mitigate risks
- not disclose the details of your client account unnecessarily, for example, by putting these details on your website or giving these to parties who are not yet your clients or are unrelated third parties.

By implementing these strategies, you can significantly strengthen enhance your defence against sham litigation.

If you use an e-verification system, it is also important not to over-rely on it. E-verification will not tell you everything you need to know about a client or counterparty, but it can be helpful in highlighting inconsistencies in what you have been told. If you use one of these systems, it is also good practice to cross-reference the information available to you, to enhance the accuracy and thoroughness of your assessment.

## Case study

Ms Narinder Kaur, also known as Nina Tiara, carried out a number of sophisticated frauds and confidence tricks. While she is better known for those which exploited weaknesses in various shops' security and returns policies, she also engaged in sham litigation.

Ms Kaur used what appeared to be a legitimate dispute with her brother to commence several sham claims via a number of solicitors' firms. This scheme aimed to launder money through various firms' client accounts to Ms Kaur, obscuring its origin and making it more complicated for the money to be recovered.

Ms Kaur had, as part of a genuine legal dispute, successfully sued her brother and obtained judgment for a large sum of money. As a result, he was declared bankrupt. Ms Kaur approached a variety of firms seeking legal assistance to claim a supposed judgment debt, stating that her brother had been persuaded to settle by a third party. This turned what had once been a genuine claim into sham litigation. A man posing as her brother then contacted the affected firms and offered partial payment from a stolen credit card.

What makes Ms Kaur's case noteworthy was the use of genuine documents from a previous claim to establish a well-crafted fabrication. This serves as a reminder to legal professionals to be vigilant.

The need for legal practitioners to question and verify claims, even when supported by apparently legitimate documentation, is a critical lesson for solicitors and their firms.

Ms Kaur was [convicted at Gloucester Crown Court on 10 March 2023](https://www.cps.gov.uk/west-midlands/news/cps-statement-sentencing-narinder-kaur-serial-fraud) [https://www.cps.gov.uk/west-midlands/news/cps-statement-sentencing-narinder-kaur-serial-fraud] on multiple counts of fraud. She was [sentenced on 30 July](#)

## [2024 at Gloucester Crown Court to ten years in prison](https://www.cps.gov.uk/west-midlands/news/cps-statement-sentencing-narinder-kaur-serial-fraud)

[<https://www.cps.gov.uk/west-midlands/news/cps-statement-sentencing-narinder-kaur-serial-fraud>].

### **What to look out for?**

We asked the firms impacted about their involvement with Ms Kaur, to find out what others could learn from their experiences.

All of the firms contacted by Ms Kaur developed suspicions about her. Some turned her away at the outset, others had an initial interview. Very few got to the stage of receiving payments before becoming suspicious and cancelling the instructions. Some filed suspicious activity reports (SARs) with the National Crime Agency as a result of their suspicions.

Some firms grew suspicious due to inconsistencies they had noted with her identification details. Among other things, she demonstrated an unexpectedly deep understanding of legal processes. Although not necessarily an issue in isolation, firms should consider such factors where other warning signs of potential sham litigation might be present and flag accordingly.

Firms also noted the odd behaviour of Ms Kaur and her accomplice, who independently contacted firms for debt payments. A fraudulent payment led the firms to investigate and uncover the deception. Additionally, persistent calls from the accomplice offering swift debt settlements raised concerns.

Ms Kaur's eagerness to settle for a fraction of the owed amount, along with her sense of urgency, raised suspicions across multiple firms. Separately, some firms reported missed appointments and unresponsiveness from her.

One firm's onboarding checks revealed that Ms Kaur's brother was bankrupt which rendered the claim against him void. Furthermore, the supposed debtor's use of credit cards with different addresses indicated the fraudulent nature of the case.

### **Further help**

For further information, you can consult:

- our [Proceeds of Crime Act guidance](https://higher-rights.sra.org.uk/solicitors/guidance/proceeds-crime-guidance/) [https://higher-rights.sra.org.uk/solicitors/guidance/proceeds-crime-guidance/]
- the [Legal Sector Affinity Group guidance](https://higher-rights.sra.org.uk/globalassets/documents/solicitors/firm-based-authorisation/lisag-aml-guidance.pdf) [https://higher-rights.sra.org.uk/globalassets/documents/solicitors/firm-based-authorisation/lisag-aml-guidance.pdf] – while this is aimed at firms within scope of the MLRs, many of the risk indicators and procedures will be useful for all work types.

Next scheduled review due by January 2026.