

Guidance

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Identifying your client

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Published: 25 November 2019

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Status

This guidance is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

Who is this guidance for?

This question and answer is for solicitors, RFLs, RELs, SRA authorised firms and their employees.

Q. I am a solicitor in private practice. Paragraph 8.1 of the new SRA Code of Conduct for Solicitors, RELs and RFLs requires me to identify who I am acting for in relation to any matter. Does this effectively mean that I must comply with the Money Laundering Regulations 2017 by obtaining proof of identity and address in all matters, not just those which come within the regulations?

No.

Bearing in mind the rise in fraud in many areas of practice (eg as in the Dreamvar case), the purpose behind the rule is primarily to reduce the risk of being inadvertently caught up in a fraud by ensuring that you are satisfied you know who you are dealing with at the outset of each retainer.

Although the above Code requirement places an obligation on you to identify who you are acting for, there is also an equivalent provision ([paragraph 7.1 of the Code of Conduct for Firms \[https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/1.\]](#)) which applies to your firm. It is likely that your firm will wish to consider whether arrangements or controls need to be put in place to ensure that

all the fee earners, whether solicitors or not, meet the Standard (paragraph 2.1 of the [Firms Code](https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/) [https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/]). If your firm has not started to address this, you may like to discuss it with the managers.

The Code is not prescriptive; it does not specify the measures to be taken and it is therefore initially a matter for your firm to decide what arrangements are necessary.

We expect those we regulate to take a proportionate approach, depending on the circumstances, including knowledge of the client, the type of work involved and whether instructions are taken from the client in person or online. In deciding what is appropriate, therefore, firms may like to consider the size of the firm, the number of fee earners, the client profile, the different areas of work your firm does and the particular risks involved in those areas of work.

For example, a small firm with only three fee earners whose practice is predominantly based on repeat business, may decide to put in place broad guidelines, but leave it to the judgment of the individual fee earner to decide what is necessary in each matter. Other firms may wish to be more prescriptive and may, for example, prefer to simplify matters by requiring all fee earners to follow the guidance set out in chapters 3 (systems, policies, procedures and controls) and 4 (customer due diligence) of the [Anti-Money Laundering Guidance for the Legal Sector](https://www.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-transfer-funds-information-payer-regulations-2017/) [https://www.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-transfer-funds-information-payer-regulations-2017/], irrespective of whether the Money Laundering Regulations 2017 apply to that particular matter.

Whatever the firm decides, it is important to ensure that all their fee-earners know what is expected of them. Depending on the circumstances, it may also be advisable to make a note on the file as to your reasons (eg if you depart from the process in your firm, or it is left to your discretion), bearing in mind that the onus will be on you to explain your approach should your conduct be called in to question.

Freelancers and solicitors, RELs and RFLs working in an unregulated business

Paragraph 8.1 of the Individuals Code also applies to those practising as freelancers or in an unregulated business, so the above considerations will also be relevant to them.

Further help

If you require further assistance, please contact the [Professional Ethics helpline](https://www.sra.org.uk/contactus/) [https://www.sra.org.uk/contactus/].