

---

# A reminder for conveyancers about paying proceeds of sale to third parties

Published 1 July 2021

The recent decision in *Lennon and another v Englefield and others* [2021] EWHC 1473 (QB) provides some comfort for solicitors who are instructed to transfer the proceeds of sale of a property to a third party agent, where the client has provided clear instructions to do so, but who subsequently face a claim.

In *Englefield* the Defendant's solicitor was alleged to have been negligent by transferring sale proceeds to an agent. The bona fides of that agent turned out to be questionable (he was a struck off solicitor) and he ran away with the money.

The case confirms that solicitors are entitled to accept instructions on the question of where sale proceeds should be paid. If a seller's solicitor is given clear instructions on this issue, it is not part of their retainer, or a task incidental to the work they are performing, to proffer advice about the commercial wisdom of the instruction or to make enquiries as to the background or solvency of the proposed recipient.

This case, however, overlooks a solicitor's obligations under the Solicitors Accounts Rules 2019 (SAR 19). These rules exist because dubious individuals will try to place money in a solicitor's bank account in the context of what appears to be a bona fide property purchase, only to abort that purchase and ask the solicitor to pay the monies to a third party rather than back to the account from which it came. In the process, the money is laundered and its true source is concealed. If a solicitor makes the transfer they will almost certainly find themselves in breach of the Code and the SRA will take a serious view of their conduct especially if large sums are at stake.

In the *Englefield* case, written authority was provided by the client to transfer the sale proceeds to the third party and so no regulatory consequences arose. SAR 19 Rule 15.1 states that client money can be paid into a bank account opened in the name of a person designated by a client, rather than the client itself, but only if the client instructs the solicitor to do so for their own convenience and only if the instructions are given in writing or confirmed in writing.

At a time when conveyancers are suffering unprecedented pressure to complete transactions, instructions to transfer any money to a third party which are not authorised by way of a legal document or transaction and which do not make sense should be treated with the utmost care. This case confirms that where a payment is to be made to a third party, the solicitor should sense check those instructions and ensure that written authority is provided. Even then, we caution solicitors to consider carefully the risk of money laundering and their regulatory obligations.

## Authors



**Tom Bedford**

Bristol

+44 (0) 1633 657 680

[tbedford@dacbeachcroft.com](mailto:tbedford@dacbeachcroft.com)