



# Faking it

Beware false documentation, say **Chris Bryden** and **Michael Salter**

A recent article in the Money section of *The Times* (14 July 2007) highlights the ability of unscrupulous would-be borrowers to artificially increase their demonstrable income to convince lenders to provide higher mortgages by way of false P60s, bank statements and other documents downloaded from the internet.

The report cites the Building Societies Association, which states that the use of such statements in mortgage applications is “rife”. Anyone using such documents to obtain a pecuniary advantage is liable to prosecution for theft or fraud-related offences. The sites offering this service insist that their activity is legal, billing themselves as providing a genuine service for those whose P60s are handwritten and therefore unacceptable, or have been lost; or simply for novelty purposes.

For legal practitioners there are more pressing concerns arising from the ease with which such documents can be obtained. It appears that bank statements from all the major banks can be quickly and easily created, with tailored details based on the location of the purchaser, such as standard direct debits to ensure the statements look authentic, and salaries paid in at whatever level the purchaser chooses. This will raise alarm bells in the mind of every ancillary relief practitioner.

## RISKY REDUCTIONS

A cynical mind will conclude that, if readily available and generally authentic-looking, an unscrupulous party might wish to provide his representatives with such documents to play down his income levels. While doing so would be risky—should the party be discovered the sanctions imposed by the court could be severe—the rewards would potentially be great.

It is common in ancillary relief cases for bank accounts to be overlooked and omitted from initial disclosure. It would be simple for a savings account to be missed out, and then, if discovered, false statements provided, showing a balance far less than the reality. Equally, false statements could be provided

to support a contention that a salary is far lower than alleged. Such statements could readily be backed up with a P60, which to all intents and purposes could look genuine. If sufficient attention to detail is paid, such statements could presumably replicate the real statements. Alternatively, a false P45 coupled with statements showing no salary payment, but instead jobseekers’ allowance, could falsely demonstrate a lost job.

This should be a matter for concern. Anecdotal evidence from mortgage companies cited in *The Times* article suggest that “undoubtedly” fake documents have been presented to them. The banks check applications by methods such as credit scoring, which unsurprisingly is not routinely undertaken by ancillary relief solicitors. This is not to say that such documents have been used in ancillary relief, but it certainly raises the possibility.

## CROSS-REFERENCING

In all likelihood the use of false documents in ancillary relief proceedings is relatively small. However, even if there is something fishy about a document, there seems little that the other side can do about it. Clarification can be sought by way of questionnaire, and a careful cross-referencing exercise is likely to show up discrepancies. But it is a big step from concerns about a document to an allegation tantamount to fraud.

Ancillary relief practitioners should be aware of the existence of companies providing these documents, and the possibility that a given document is not the real thing. It may be that many fakes simply do not look or feel genuine; it may be that mistakes and discrepancies can be spotted. However, little practical good is likely to come from such suspicions; most websites suggest that clients pay by BACS or cash directly into the company’s account “to ensure discretion”. But if a disclosed credit card statement shows payment to such a company, it may be that such suspicions can be confirmed. If suspicions are sufficiently raised, it may be that the documents can be challenged by way of

## IN BRIEF

- Ancillary relief practitioners should be aware of the existence of companies providing false bank statements, P60s and other documents.
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other evidence, for example via tax records or even *Hildebrand* documents, but unless this can be done, there may be no way of successfully challenging the authenticity of such documents.

## EMPLOYMENT TRIBUNALS

As an aside, quite apart from the potential criminal liability arising from the use of such documents to obtain, for example, a raised mortgage offer, there are potential tax issues as well. HM Revenue & Customs will likely wish to recover tax and national insurance on that increased sum, presumably from the employer.

**“It is a big step from concerns about a document to an allegation tantamount to fraud”**

Indeed, employers have even more to worry about. Just as these documents can be used to inflate salaries, so they can be used to reduce them, making the respondent in any employment tribunal proceedings face the prospect of having to over-compensate a claimant who is found to have been unfairly dismissed, as post-dismissal salary is taken into account when assessing such compensation.

Indeed, the prospect of abuse is possibly more pronounced in the employment tribunals where disclosure of financial documentation is not so regimented or usually subject to such in-depth analysis or consideration with attention not focusing on bank accounts so much as the wage slip itself.

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*In a future article, the authors will look at the effect employer insolvency can have on litigation in an employment tribunal*





**Over**

