

**Memorandum of Understanding (Process)
Between
HMRC (Anti-Money Laundering Supervision) and
The Council for Licensed Conveyancers (the CLC)
Information sharing and co-operation in relation to the
Register of Trust or Company Service Providers (TCSPs)**

The reference number of the related Umbrella MoU is: MoU-U-IR

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1. Introduction and Purpose of Memorandum of Understanding

- The parties to this MOU are HMRC and the CLC.
- Regulation 56 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) requires that all relevant persons acting as Trust or Company Service Providers (TCSPs) must be registered with either HM Revenue and Customs (HMRC) or the Financial Conduct Authority (FCA).
- This Memorandum of Understanding (MOU) is to set out agreed ground rules for cooperation between HMRC and the CLC to ensure compliance with the law regarding registration of TCSPs and associated procedures, including safeguards for disclosure of information from the CLC to HMRC and - where permitted - onward disclosure.
- The relevant information received will allow HMRC to fulfil a legal requirement and a function under MLR 2017 to maintain a register of relevant persons acting as TCSPs that are not supervised by the FCA, in the UK. It will also fulfil the legal requirement for relevant persons acting as TCSPs to register with a registering authority set out in Regulation 56 of the MLR.
- The agreement also sets out what HMRC will do with the relevant information and how it intends to process under the Regulations set out below.
- Under the terms of this MOU, the CLC will provide to HMRC the relevant information identified in Appendix 1 of those relevant persons it supervises that act as TCSPs and which are not registered with the FCA.

2. Legal Basis

- Reg 54 (2) (MLR 2017) mandates that the Commissioners must maintain a register of those relevant persons who are not included in the register maintained by the FCA. TCSPs are relevant persons.
- Reg 58 also mandates that HMRC must refuse to register an applicant for registration in a register that they maintain under Reg 54 as a TCSP if it is satisfied that the applicant, a beneficial owner, officer or manager (BOOM) of the applicant is not a fit and proper person to carry on that business.
- Reg 58(6) requires HMRC, as the registering authority (when it is not also the supervisory authority), to consult the supervisory authority (in this case the CLC) as to whether or not the applicant for registration is a fit and proper person. It also permits HMRC to rely on the supervisory authority's opinion as to whether or not the applicant is a fit and proper person to carry on business as a TCSP.
- Reg 52 (MLR 2017) permits the CLC to share with HMRC information it holds relevant to its supervisory functions for the effective exercise of HMRC's functions under MLR 2017.
- Reg 52 therefore provides a legal gateway for the CLC to share information it holds relevant to its supervisory functions in relation to TCSPs with HMRC so that HMRC can carry out its function under Reg 54(2) to maintain a register for TCSPs that are not registered with the FCA.
- Reg 52(2)(a) of MLR 2017 permits onward disclosure of information received by HMRC under Reg 52 for the effective exercise of the functions of a law enforcement authority. It also permits onward disclosure in specific circumstances as set out in Reg 52(2)(a) to (e).

- Reg 56 prohibits a relevant person from acting as a TCSP if not included in the appropriate register maintained by HMRC or the FCA.

3. Procedure

3.1 General

- HMRC will maintain the register of TCSPs using a Shared Workspace. This is a secure environment that allows access only to those assigned to a "room" within it.
- The CLC will provide for registration purposes details of the TCSPs it supervises through a Shared Workspace room hosted by HMRC.
- The CLC will provide HMRC with the details of a contact within the CLC with responsibility for liaising with HMRC on the upload of information in to the Shared Workspace.
- The CLC will inform HMRC if this contact changes and provide a new contact for HMRC to liaise with as required.
- HMRC will provide the CLC with information and guidance on using the Shared Workspace.

3.2 Relevant information

- The relevant information that will be shared with HMRC Anti-Money Laundering Supervision is set out in Appendix 1 below.
- The CLC agrees to share the relevant information with HMRC.
- The information listed in Appendix 1 is subject to change that is in accordance with the MLR 2017. HMRC will discuss changes in accordance with MLR 2017 with the CLC and agree with the CLC sufficient lead-in time to collect the data.
- The CLC will only include in the list that is shared with HMRC details of applicants and persons it deems to be "fit and proper" as set out in Regulation 58 of the Regulations. HMRC will rely on the CLC's opinion that applicable individuals in accordance with MLR 2017 within the business of each relevant person is fit and proper as allowed for by Regulation 58 (6).
- All mandatory fields in the register (see Appendix 1) must be completed or the relevant person will not be registered.

3.3 Frequency

- Uploading of data will commence when the CLC is ready, aiming for a 1 March 2018 deadline, and in any case by 26 June 2018.
- The CLC will decide how often it updates the applicant information in the Shared Workspace, and will be responsible for ensuring that all businesses it supervises under the MLR 2017 that act as TCSPs are on the register. Applicants whose details have not been added to the Shared Workspace by 26 June 2018 will need to wait and not act as a TCSP until registered.
- The CLC will remove the details of businesses it knows will no longer be acting as TCSPs without undue delay. This includes all businesses that cease to be supervised for AML by the CLC.
- The CLC will correct inaccurate information in the Shared Workspace without undue delay on notice of any change or correction. This includes changes to the details of relevant persons and errors.
- If the CLC finds that it no longer deems a relevant person listed in the Shared Workspace to be fit and proper, it will immediately inform HMRC, in addition to taking necessary actions as set out elsewhere in this MOU.

- The CLC will observe a duty of care to ensure that the information in the Shared Workspace is accurate and in line with the provisions set out in this MOU.
- HMRC will hold the register information for the duration of a business's registration as a TCSP, then for a further five years, in accordance with HMRC's data retention policy.

3.4 Transfer of Data

- The CLC will transfer the data to the Shared Workspace room set up by HMRC.
- The CLC will decide how to initially populate the Shared Workspace, which can be done manually or by a bulk upload.
- The CLC will be responsible for ensuring the information on the register is accurate and up-to-date.
- The CLC will decide its own approach to keeping the register information for its supervised businesses up-to-date as regards contact with supervised businesses.
- HMRC will receive the data in the Shared Workspace room, which will in turn be uploaded to a database including the data from all supervisors of TCSPs except for the FCA. All references and requirements in this MOU apply equally to this database.
- Relevant persons are registered with HMRC once all the data fields have been completed and the CLC has confirmed fit and proper status.
- HMRC will not respond to the CLC when a relevant person is registered or when changes are made to the data unless it does not approve the registration. If HMRC does not approve the registration of a relevant person, it will inform the CLC, which will arrange for the applicant business to be informed within 45 calendar days of receipt of notification by HMRC. In other cases, HMRC's response to the applicant will be sent by the CLC using the standard letter provided by HMRC within 45 calendar days of registering the relevant person.

3.5 Security and access

- The information supplied will be held in a Shared Workspace and then uploaded along with registration details from other supervisors to one of HMRC's internal databases.
- The data provided by the CLC for the purposes of the register will be made available to HMRC systems to the extent permitted under MLR 2017 and applicable law.
- The Shared Workspace is a secure environment so the CLC does not need to encrypt the data before transferring it.
- It is HMRC's responsibility to ensure information on the register is held securely. If there is an issue with the Shared Workspace, it will be HMRC's responsibility to fix this.
- HMRC intends to make the register accessible to Law Enforcement Agencies on request to the extent permitted by the regulations and this may involve direct access.
- Section 17 of the Commissioners for Revenue and Customs Act 2005 permits HMRC to make a disclosure of information held by HMRC in connection with one function of HMRC for the purposes of another function of HMRC.
- Details from the register may be used by HMRC to inform their response to requests from other UK or overseas supervisors or other authorities seeking to identify the supervisor of one or more persons to the extent permitted under MLRs 2017
- Details from the register may be used by HMRC to inform their response to requests from other agencies and government departments to the extent permitted by the regulations and applicable law.

- HMRC will consult with the CLC prior to entering in to formal arrangements with agencies and government departments for information exchange or data requests.
- Except where there are specific provisions to the contrary, HMRC will not share information held in the Shared Workspace about individual relevant persons supervised by the CLC, but it is anticipated that information will be analysed to better understand the UK population of TCSPs; and that aggregate and trend data might be disclosed, and shared within the supervisor and law enforcement communities; with OPBAS and HM Treasury. It may also be appropriate for some aggregate data to be published in other ways, e.g. in annual reports and in responses to Freedom of Information Act requests or Parliamentary Questions.
- Two persons at the CLC will each be assigned a licence to access the Shared Workspace room set up for the CLC. These two people will be able to reassign the licences to new email addresses as required. Licences cannot be applied to group email addresses for security reasons.

3.6 Registration, de-registration and suspension

- HMRC will provide the CLC with a standard letter from HMRC to inform businesses that they are registered with HMRC. HMRC will also supply further standard letters as necessary, e.g. to confirm that details of a relevant person have been removed from the register.
- The CLC agrees to send the standard letter to businesses on behalf of HMRC to inform them that they are registered with HMRC. They will ensure that the relevant person receives the confirmation within 45 days of the application being lodged in the Shared Workspace.
- The standard letters and changes to standard letters must be agreed between HMRC and the CLC or via Affinity Group Meetings as appropriate.
- Only applicants whose entries have all fields completed and confirmation that the BOOMs in the business are fit and proper will be registered.
- In cases where the CLC becomes aware that 'fit and proper' status is no longer appropriate, it will immediately take steps to notify the relevant person to inform them that they must remove any individuals that failed the fit and proper test from acting as a BOOM or the relevant person's business will be de-registered.
- If the relevant person does not remove the individuals as required, the CLC will remove the relevant person's business from the register, and take actions necessary for de-registering the business as set out elsewhere in this MOU, and will notify HMRC.
- In cases where HMRC becomes aware that 'fit and proper' status is no longer appropriate, it will consult the CLC. Where appropriate, the CLC will notify the relevant person to request that the individuals that have failed the fit and proper test no longer act as a BOOM. If the relevant person does not take appropriate steps, HMRC and the CLC will liaise over removing the relevant person from the register.
- HMRC may suspend a registration for any of the reasons listed in Reg 59 or 60. In such instances it will liaise with the CLC and both parties will co-operate with each other as appropriate.
- The CLC may de-register a business at any time without the need to consult HMRC.
- HMRC will provide the CLC with a standard letter from HMRC to inform businesses that they are no longer registered with HMRC and that they should no longer perform TCSP activity. the CLC will ensure that the relevant person receives the confirmation of de-registration within 45 calendar days of the relevant person being removed from the register.

- HMRC will not generally de-register a business supervised by the CLC on its own initiative as the CLC has responsibility for maintaining the part of its register for its supervised members. However, if HMRC decides to de-register a business it will consult the CLC, prior to de-registration, and HMRC and the CLC will agree how to handle de-registration with regard to the specifics of the case.

3.7 Businesses that act as a TCSP without being registered

- The CLC will review any case involving one of its members acting as a TCSP without being registered and apply its usual procedures as regards discipline and penalties.

4. Security and Assurance

HMRC will:

- Only use the relevant information for purposes that are in accordance with the law.
- Share relevant information internally as permitted by the Commissioners for Revenue and Customs Act 2005.
- Only make onward disclosure of the relevant information when permitted by the MLR 2017 or any other statutory provision.
- Only retain data in accordance with its data retention policies, which are to only retain the data for the duration of the registration and a further five years.
- Store the data received securely and in accordance with central government standards.
- Move, process and destroy data securely, in line with the principles set out in HM Government Security Policy Framework, issued by the Cabinet Office, when handling, transferring, storing, accessing or destroying information.
- Comply with the requirements in the Security Policy Framework, and in particular Section 2.10, to be prepared for and respond to Security Incidents and to report any data losses, wrongful disclosures or breaches of security relating to information.
- Apply the appropriate baseline set of personnel, physical and information security controls that offer an appropriate level of protection against a typical threat profile as set out in Government Security Classifications (GSC), issued by the Cabinet Office, and as a minimum the top level controls framework provided in the Annex – Security Controls Framework to the GSC.

5. Data Protection Act 1998 (DPA) and Human Rights Act 1998 (HRA)

Nothing in this Memorandum of Understanding will limit HMRC's legal obligations under Data Protection legislation.

All the information transferred by the CLC should be relevant, necessary and proportionate to functions held under the Money Laundering Regulations and in support of the development and implementation of policies to counter money laundering and terrorist financing and co-ordination of activities to counter money laundering and terrorist financing (including co-operation with overseas authorities and in the context of European Economic Area initiatives); and should enable HMRC to maintain the register of TCSPs as required under Regulation 54.

HM Revenue and Customs and the CLC will become Data Controllers (as defined in the glossary of terms) of any personal data received from the other under the terms of this MOU.

6. Freedom of Information (FOI) Act 2000

HMRC is subject to the requirements of the Freedom of Information Act 2000 (FOI). The CLC will assist and co-operate with HMRC to facilitate compliance with information disclosure obligations.

In the event of the CLC receiving a request for disclosure of information which it believes to be proper to HMRC, the CLC will forward the request to HMRC promptly and assist where appropriate in preparing a response.

7. Costs/charges

HMRC will not charge the CLC to register the businesses supervised by the CLC.

This MoU will require review in the event of a change to this policy.

8. Reporting and review arrangements

HMRC will review this MoU with the CLC if necessary when the General Data Protection Regulation is implemented. HMRC will make any necessary changes if necessary with the agreement of the CLC to ensure compliance with the GDPR and any future legislation including the anticipated new Data Protection Act.

HMRC and the CLC will review this MoU at the request of either party or every five years. In the event of organisational changes, name changes, machinery of government changes affecting HMRC or mergers or acquisitions affecting the CLC, it will be assumed that this MOU continues to apply unless or until a review is considered necessary by either party.

9. Resolving issues


Any complaints, problems, issues etc. that are specific to the information sharing or exchanges covered by this MoU should immediately be referred to the contacts named in Appendix 2. If these cannot be resolved they should be reported, in writing to:

	For HMRC	For the CLC
Name	John Linnett	Jason Hinrichsen
Job Title	Data Exchange Champion	Director of Finance and Operations
Team	CSIR	Finance and Operations
GSI Email	john.linnett@hmrc.gsi.gov.uk	Jasonh@clc-uk.org
Telephone	07885 932572	0207 250 8467

10. Signatories

delegate to sign on their behalf e.g. the SIBP team.

For HMRC


Doug STONEHAM

ASSISTANT DIRECTOR AMLS (role)

For the CLC


Simon Blandy (name)

Director of Regulatory Standards (role)

9/3/18 (date)

9 March 2018 (date)

11. Document Control Personnel

Key personnel	Name & role	Organisation (Team)
Author	David Hagreen, Senior Policy Advisor	HMRC (Anti-Money Laundering Supervision)
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	Anna Rowlands AMLS Policy Team Leader	HMRC (Anti-Money Laundering Supervision)
	Simon Blandy Director of Regulatory Standards	CLC (Regulatory Standards)

12. Version History

Version	Date	Summary of changes	Changes marked
0.1	16/01/2018	Draft for professional bodies	No
0.2	23/2/2018	Final draft for signature	No

13. Review dates

Version	Publication date	Review date

14. Glossary of Terms and Abbreviations

Definition	Interpretation
Data Controller	has the meaning set out in section 1 of the Data Protection Act 1998, i.e. 'a [natural or legal] person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed'
Data Processor	has the meaning set out in section 1 of the Data Protection Act 1998, i.e. 'in relation to personal data, any [natural or legal] person who processes the data on behalf of the data controller'
Data Protection Legislation	means the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner
Direct Access	Covers an information sharing instance where the receiving Department accesses the Information via direct, or browser, access to the source system rather than as an extracted information transfer. This agreement will require specific terms and conditions ensuring that access is appropriate and correctly applied, managed and recorded.
FoIA	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act together with any guidance and/or codes of practice issued by the Information Commissioner or Ministry of Justice in relation to such legislation.
Granting Access	The governance and authority surrounding the authorisation of a person to have access to a system.
Information Asset Owner (IAO)	means the individual within a directorate, normally the Director, responsible for ensuring that information is handled and managed appropriately
Law	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body
Provisioning Access	The technical channels through which access is made possible, including the request tools associated with this.

Abbreviation	Description
CRCA	The Commissioners for Revenue and Customs Act
MoU	Memorandum of Understanding

Government Security Classification – NONE

FOIA	Freedom of Information Act
FOI	Freedom of Information
GDPR	General Data Protection Regulation
HMRC	Her Majesty's Revenue and Customs
MLR	Money Laundering Regulations
SPF	Security Policy Framework

15. Appendix 1 – Relevant information

The data fields the CLC will share with HMRC are:

- Name of the business (or individual) acting as a TCSP
- Registered address of the business where they can be contacted.
- Confirmation that the relevant persons in the supervised business are fit and proper with regard to Regulation 58.

This Appendix may be updated following consultation without requiring a formal review of the MOU.

16. Appendix 2. Contact details

	For HMRC	For the CLC
Name	David Hagreen	Simon Blandy
Job Title	Senior Policy Advisor	Director of Regulatory Standards
Team	Anti-Money Laundering Supervision	Regulatory Standards
GSI email	david.hagreen@hmrc.gsi.gov.uk	simonb@clc-uk.org
Telephone	03000 535 696	0207 250 8479
Deputy's name	Helen Noonan	Helen Gracie
Deputy's GSI email	helen.noonan@hmrc.gsi.gov.uk	heleng@clc-uk.org
Deputy's telephone	03000 585 835	0207 250 8483

