



AML Enforcement Policy and Procedure

This document explains how the CLC responds to non-compliance with Anti-Money Laundering (AML) laws and regulations. It should be read in conjunction with the CLC's [Regulation and Enforcement Policy](#).

What is meant by Enforcement?

Where CLC Practices fail to comply with AML laws and regulatory requirements, the CLC will hold them to account. Depending upon the nature of the breach the CLC may pursue informal resolution, regulatory action, or disciplinary action.

Enforcement actions aim to be:

- Proportionate, consistent and targeted at cases where action is most needed. For example, less serious breaches will not receive the same response as more serious or repeated breaches.
- Based upon reliable evidence and clear standards.
- Exercised in a way that is transparent and accountable.

Scope of Enforcement Powers

The CLC can take enforcement action against:

- CLC Practices
- CLC Lawyers
- Nominated Officers/Money Laundering Reporting Officers (MLROs), and
- Owners, Managers and employees of CLC Practices.

Example Breaches

The following AML breaches may lead to enforcement proceedings:

- No/inadequate practice-wide AML risk assessment
- No/inadequate AML policy and procedure
- No/inadequate MLRO enhanced training
- No/inadequate relevant staff training
- No/inadequate records and evidence of staff and MLRO training
- No evidence of source of funds and source of wealth checks on client files.

The enforcement tools that are used to address a particular breach will depend on the circumstances and the decision-making considerations below.

Decision-making considerations

The CLC takes a risk-based approach to regulation. In determining whether to take enforcement action we will consider some or all of the following:

- the seriousness of the act or omission and the likely or actual risk of money laundering taking place.
- the effect the breach is likely to have on:
 - the reputation of the rest of the profession; and

- public confidence in those services and the CLC’s Regulatory Arrangements.
- the extent to which the act or omission is a one-off occurrence or is part of a series of similar matters or appears to be deliberate or vexatious.
- the period of time over which the act or omission has occurred.
- management competence and willingness to comply with directions from the CLC.
- the adequacy of AML policies, controls, and procedures.
- any other relevant information.

Enforcement decisions made will be regularly and systematically scrutinised to ensure that criteria are being consistently applied.

Enforcement Tools

Each of the following enforcement tools may be used in isolation, simultaneously, or consecutively where the usage of one tool has not resulted in compliance. It is not necessary that informal/regulatory tools are exhausted before a statutory power is used.

Informal/Regulatory Action Approach – delegated powers of CLC staff

| Enforcement tool | Authority | Review of Decision |
|---|--|--|
| Undertaking agreed with the CLC to take or cease taking a particular action | <p>CLC staff</p> <p><i>(Legal Practice Inspector, CLC Authorised Officer or other CLC employee of equivalent or senior position)</i></p> | <p>Director of Operations</p> <p>Director of Regulatory Standards,</p> <p>or other CLC employee of equivalent or senior position</p> <p><i>(provided any review is not determined by an employee who made the initial determination)</i></p> |
| Inspection or re-inspection | | |
| Reminder of responsibilities | | |
| Provision of information, support and advice | | |

Statutory powers in Administration of Justice Act 1985 (1985 Act) and Legal Services Act (2007 Act)

| Enforcement tool | Statutory Authority | Determination made by |
|-----------------------------|------------------------------|------------------------|
| Licence/certificate revoked | 1985 Act s.26(2)(a) | CLC Adjudication Panel |
| | 1985 Act s.28 fraud or error | |
| | 2007 Act s.101 | |

| | | |
|--|-------------------------------|------------------------|
| Disqualification from holding a licence/role | 1985 Act s.26(2)(b) | CLC Adjudication Panel |
| | 2007 Act s.99 | |
| Licence/certificate suspended | 1985 Act s.24(5) | CLC Adjudication Panel |
| | 1985 Act s.26(2)(c) | |
| | 2007 Act s.101 | |
| Payment of a penalty | 1985 Act s.24A(1), s.26(2)(e) | CLC Adjudication Panel |
| | 2007 Act s.95 | |
| Reprimand | 1985 Act s.26(2)(f) | CLC Adjudication Panel |

Monitoring and Escalation Procedure

Monitoring and Informal action (*staff investigation and advice*): Where the CLC is aware of potential non-compliance it carries-out a practice inspection. If the breach is less serious, informal action is taken. Advice, support and guidance are provided.

Regulatory action (*staff delegated powers*): If further investigation is required, the support offered has not been accepted, or the individual/body commits relatively minor breaches on a regular basis and fails to respond to informal resolution actions, regulatory action can be taken.

Disciplinary action (*Adjudication Panel hearing*): Disciplinary proceedings may be initiated where steps have failed to achieve the intended outcome, or it is not appropriate because of the actual or likely impact on a client, or clients, or because of the serious nature of the issue.

Timeframes

The CLC will clearly communicate timeframes for compliance . Timeframes will be determined on a risk-based and case-by-case basis, and with regard to the decision-making considerations in this policy. If a practice does not meet a given deadline for compliance this may:

- increase the severity of the enforcement tools and approach taken by the CLC
- result in referral to the Legal and Enforcement Officer
- result in referral to the Adjudication Panel.

Appealing a decision

Any enforcement decision may be appealed. The appeal may be heard by the First Tier Tribunal (FTT) with the possibility, in some cases, of appealing to the Upper Chamber on a point of law.

In the case of informal, regulatory or disciplinary action taken by CLC staff, the matter will be referred in the first instance to the line manager or a Director (with no prior involvement in the matter) who will review the decision.

Publication of decisions

To educate CLC practices, deter further non-compliance, and maintain public confidence, the CLC will publish anonymised case studies of informal actions, as well as determinations of the Adjudication Panel. Refer to the [CLC Regulation and Enforcement Policy](#) for more information.

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