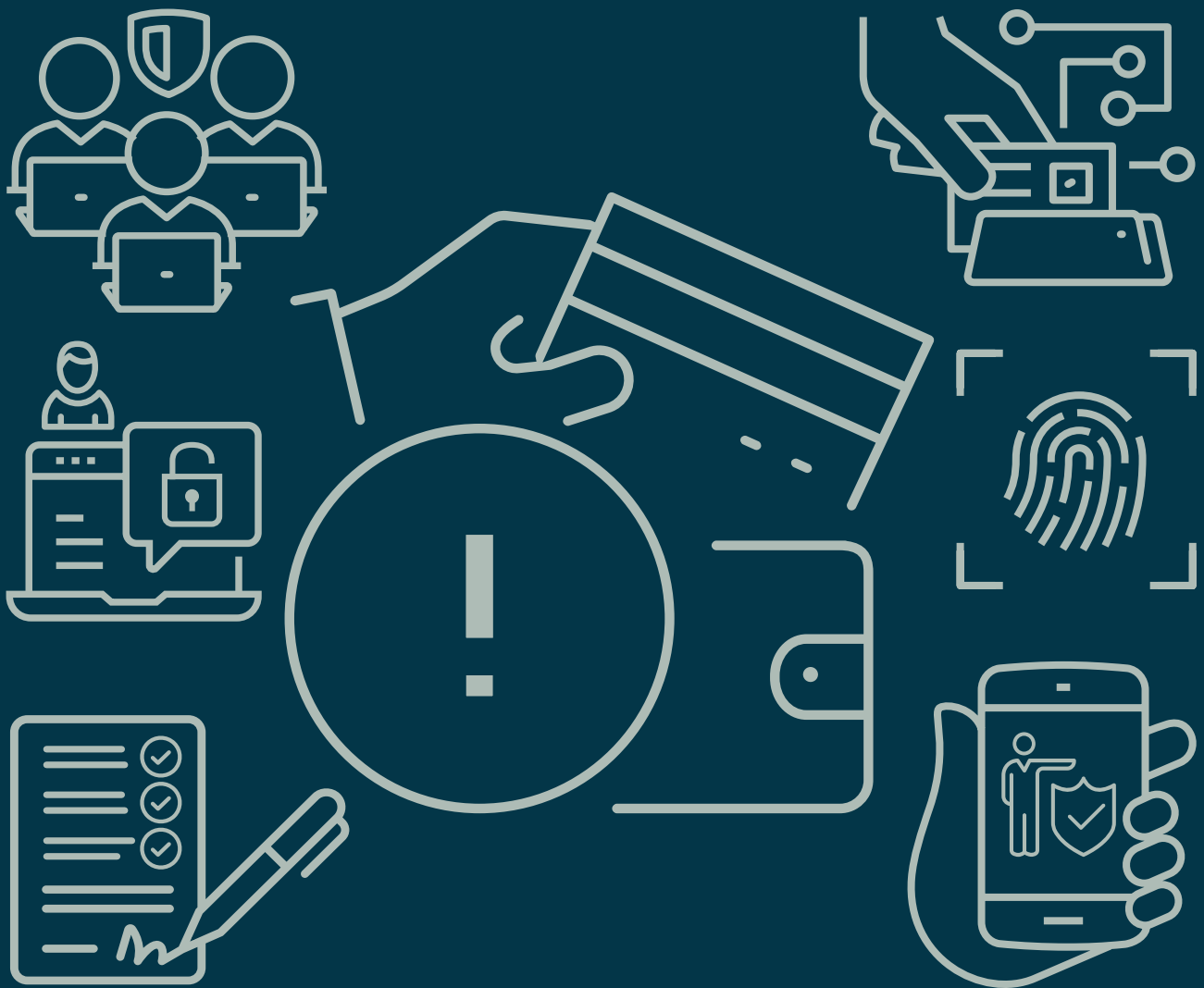




Regulating
Property
And
Probate
Lawyers

The CLC's Annual Anti-Money Laundering Report October 2022





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Foreword by the Chair of the Council for Licensed Conveyancers

The Council for Licensed Conveyancers and the legal experts we regulate have a vital role to play in combatting money laundering, and our second Annual Report on AML sets out some of this critical work undertaken during the period 2021-22 and beyond.

Money laundering facilitates some of the most harmful crimes in the UK and abroad and enables them to become more profitable. It is not in dispute that this occurs on an industrial scale and permeates many sectors of society. For example, in its most recent National Strategic Assessment of Serious and Organised Crime, the National Crime Agency (NCA) has reported that over £12bn in criminal cash is generated annually by this activity.

As key participants in a range of legal checks and activities (including but not limited to property transactions) the conveyancers and practices we regulate have a core role in ensuring these proceeds of crime are identified and reported appropriately.

To achieve this the CLC has a consistent, thorough and diverse approach to entry standards, monitoring, advice and compliance. These are informed by risk assessments and underpinned by a clear focus on our regulatory objectives to support robust outcomes in the public and consumers' interest.

There are a number of touch points with practices throughout the year, which are set out in the body of the report. In addition, the CLC achieves a very wide coverage with up to a third of our practices being inspected each year. We believe that the outcomes of our approach, reflected in the data, demonstrates the positive impact we are making. And we will of course continue to look to how to improve our focus on risk.

From our close and frequent interaction with the sector we are aware that there is a very large majority who want to adhere to AML requirements and uphold their reputation, and that of the profession, while protecting consumers. However - as in every single sector - there is a small group that does not meet the standards we expect. Our focus remains on identifying and dealing with such practices, to maintain confidence in the profession as well as the rule of law and the administration of justice and in the wider public interest.

As such we continue to take our work as an AML supervisor very seriously, as demonstrated in this report of our work over 2021-22. For example, we have increased staff and budgetary resourcing during this period. This is together with having a dedicated money laundering reporting officer and deputy in post to meet our obligations to both identify and report suspicions of money laundering to the NCA.

In line with all our regulatory activity, AML is an area where our work has evolved to understand potential gaps and risks. As an illustration, we are ensuring we obtain a clearer view of Trusts and Company Service Providers by undertaking a comprehensive thematic review to map the potential risks that could emerge around AML. This will support our rolling programme of AML work, including pursuing and focusing our enforcement work where it's needed most.

In addition, the CLC remains committed to continued close engagement and information-sharing with the regulated community, government agencies, legal (and other) sector regulators, financial services providers (informally and through formal networks) and consumers to tackle crime and to protect clients and citizens. The CLC looks forward to working with all these partners to further address this issue.

Our commitment to helping stamp out money laundering is clear, and we hope this report will act as a further reminder to conveyancers to continue taking the steps needed to meet their obligations in this vital area of work along with furthering demonstrating our ongoing commitment to AML supervision.

Dame Janet Paraskeva
October 2022



Our Supervisory Landscape

The following section covers the CLC's remit and role in Anti-Money Laundering and Combating Terrorist Financing (AML/CTF).

Background & Context

The Council for Licensed Conveyancers (CLC) regulates specialist conveyancing and probate lawyers in England and Wales¹.

The CLC was established by the Administration of Justice Act 1985 and is bound by the regulatory objectives in the Legal Services Act 2007. The CLC also has powers derived from the Courts and Legal Services Act 1990 and the Deregulation Act 2015. The CLC's authority as a Professional Body AML Supervisor (PBS) has been ratified by His Majesty's Treasury in Schedule 1 of the Money Laundering Regulations (MLRs).

The CLC's regulatory activities include:

- Setting educational and training standards for entry into the conveyancing and probate profession.
- Setting licensing and authorisation standards for entry into the profession to provide conveyancing and probate services directly to the public.
- Setting standards to regulate professional practice, including conduct, and ongoing professional competency
- Setting standards to maintain adequate professional indemnity insurance and a compensation fund.
- Ensuring compliance with those standards
- Monitoring the work and conduct of, and providing guidance to, regulated bodies.
- Investigating allegations of misconduct and taking appropriate disciplinary action.
- Contributing to policy development.
- A preventative working model that seeks to identify and rectify issues with practices' co-operation before harm is caused wherever possible.

AML Responsibilities

Since 2017 the National Risk Assessment of Money Laundering and Terrorist Financing (NRA) has identified legal services, and in particular conveyancing, both residential and commercial, as one of the services most at risk of exploitation by money launderers. As the specialist regulator for conveyancing services and probate activities in England and Wales to the public we continue to carefully monitor each NRA, including the most recent third report published in 2020.

¹ As of 5 April 2022 the CLC regulated 226 entities (167 practices and 59 sole practitioners). This compares to the last reporting year where there were also 226 entities, although 194 were practices, and 32 were sole practitioners. (See Table below).



In light of the risk profile of the services they provide, the CLC, as part of its entry requirements for business seeking to be regulated by us, tests the applicants knowledge and ability to put in place complaint AML controls and processes. Subsequently, once granted a licence, CLC practices are obliged to undertake a variety of risk assessments at the client/matter level and also at the practice level.

The CLC requires that all of the risk assessments properly identify risks, are updated regularly and are used by the practices in their day-to-day operations. Practice wide assessments (PWRAs) must have regard to the factors outlined at regulation 18 of the Money Laundering Regulations. This includes the type of instructions that are accepted, and practices must have sufficient measures in place to ensure that they are not targeted by those who launder money. To this end we have recently issued an Advisory Notice recommending that practices should stress test their business against a scenario of a significant fall in transactions. We will be following up on this in our Regulatory Return data-gathering exercise this autumn.

The CLC's specific obligations and duties as a professional body AML supervisor are set out in the MLRs. In particular, regulation 46 requires that the CLC takes a risk-based approach to supervision, basing the frequency and intensity of supervision on the:

- Supervised population's risk profile.
- Keeps written records of actions taken, including reasons for deciding not to act.
- Takes effective measures to encourage the supervised population to report potential or actual breaches of the MLRs to it.

Furthermore, regulation 47 sets out the information that the CLC is required to provide to its supervised population, and regulation 49 imposes additional duties on self-regulatory organisations to ensure effective delivery of their supervisory functions.

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 also added new Regulation 46A, which requires the CLC to publish an annual report that sets out:

- Measures taken to encourage reporting by the regulated population of actual or potential breaches of the MLRs.
- The number of reports received.
- The number and description of measures carried out to monitor and enforce compliance by relevant persons with their obligations under the MLRs, the Terrorism Act 2000 and the Proceeds of Crime Act 2002.

This is the second of the CLC's Regulation 46A AML Annual Reports. The content and style of future reports will develop along with our approach to AML supervision and enforcement, and with guidance issued by the Office for Professional Body AML Supervision (OPBAS).

2 CLC AML & CTF code paragraphs 3, 5, 6 and 9(e).



Overview - Authorisations and licensing (entity level entry into the profession)

The CLC Model

The CLC incorporates a number of stress tests into the application process prospective CLC registrant entities. Applicants must make early identification of their sources of work and ability to manage volumes of work, and clearly identify the risks associated to nature of the legal services the business intends to provide. Including a breakdown of transaction types, and the nature and characteristics of clients.

Applicants must explain in detail the practice's organisational structure and operating procedures, and how these, with particular reference to properly maintaining consumer protection and AML, will effectively identify and manage risk associated to the legal services provided, including the submission of those relevant policies and procedure that explain of all appropriate systems, controls and management processes that the business will have in place to satisfy the CLC that its managers and key personnel understand how to operate in a safe and responsible way.

The application guidance sets out our expectation that the HoLP, HoFA, MLRO and Practice Manager should contribute to the drafting these documents, including a AML policy and procedure, and a separate completed practice wide AML risk assessment.

The totality of all submitted policies and procedures are subjected to a desk-top inspection by the Monitoring and Inspection Team. This process provides early identification and intervention points for high risk areas of practice. It also ensures entity registrants are early adopters of effective and compliant ways of working.

Overview - AML Monitoring & Compliance

The CLC Model

The following section covers our plans and strategy for AML monitoring and Compliance. It is important to note how the system works both in theory and reality.

1. All of the workstreams and sources of data / insight form part of a CLC AML lifecycle.
2. These process and outputs have already flagged historic and live risks and themes.
3. These form part of the focus on particular areas (among general AML engagement) and, for example, closing gaps in effectiveness or a practice's focus.
4. The findings from that stage are then used to feed back into the system.



Our Approach

The CLC has the power to carry out monitoring activities of its regulated entities, and entities are obligated to provide documentation as and when it is requested by the CLC. Our suite of AML specific monitoring activities includes desk-based reviews, onsite inspections, investigations (e.g., where intelligence is received) and surveys (e.g. a CLC AML Questionnaire). We have the power to apply disciplinary and/or financial sanctions ourselves or, in more serious cases, by referral to our independent Adjudication Panel.

The data derived from the above processes is captured by an AML Risk Register.

This high level of compliance we secure from practices in what is a very demanding area shows the benefits of the CLC's 'assisted compliance' approach. The CLC works with firms so that they can bring their operations into compliance quickly once a breach is identified.

This serves the public and client interest by securing rapid compliance wherever possible. When that cannot be achieved (whether in substance or in line with our timescales), we have a range of disciplinary steps that we can take that are proportionate to the matter in hand and which might of course be appropriate even once compliance is secured.

SARS

There has historically been a very low number of SARS in our regulated sector.

SARs are not captured by the Risk Register but it is something we will consider capturing going forward. We have recently revised the general inspection reporting form to capture whether practices have made a SAR or not and typically undertake a review of the same during inspections.

The CLC intends to capture accurate sector wide data on SARs in the upcoming regulatory return which is a detailed questionnaire to be sent out to practices later in 2022. Our intention is to review this data and then to decide on further action - such as a thematic review or further targeted investigation of specific practices.

(On this issue, the CLC would note that both regulators and the regulated community would also benefit from further and more detailed feedback on how SARS are actioned and any analysis of submissions is available.)

Regulatory Supervision Managers

During the period ending 5th April 2022, the CLC's team of four Regulatory Supervision Managers (RSMs) were responsible for the monitoring and compliance of our regulated community.

Each RSM managed a portfolio of practices to ensure compliance with the Code of Conduct, MLRs and other anti-money laundering and prevention of financing terrorism legislation.

For example, in relation to risks the RSMs worked with the CLC's money laundering reporting officer (MLRO) and Deputy MLRO as required, notifying them of these in accordance with internal reporting procedures. These are reported to the Senior Management Team and Council periodically³.

Our approach to regulation means that we offer a dedicated point of contact for our practices via the RSMs, which helps to establish and foster strong working relationships, thereby encouraging transparency and engagement.

The benefit of this model is that it gives practices the opportunity to seek guidance and discuss compliance issues at an early stage, which in our view prevents more serious problems coming to light at a later stage. This approach can also provide an early insight into potential weaknesses in a practice's controls, systems and processes.

³ The AML risks captured are captured in the CLC's risk agenda which can be found here: <https://www.clc-uk.org/wp-content/uploads/2022/07/CLC-Risk-Agenda-2022.pdf>



Inspections

Our inspections (which are our primary monitoring tool) have been updated in line with the latest LSAG guidance - for example we require that our regulated community undertakes a risk assessment on each client/matter in addition to the PWRA.

Inspections also form a major part of our overall AML assessments. We aim to inspect practices every 3 years. It is important to note that RSM's also meet new practices within the first six months of operation and carry out an inspection in their first year.

Visits may be more frequent than every three years if intelligence, which can come from a range of sources, suggests that a more focussed inspection is required outside of the established minimum timeframes. Inspections are also tailored to the size of the practice in that larger practices may be subject to a different monitoring process owing to their size⁴. It is important to note that desk-based reviews of a practice's policies and procedures take place as a precursor to an inspection, and therefore form part of our onsite inspections framework.

(Further details on this key AML approach can be found at Annex A.)

Ratings

Following the inspection, practices are rated as compliant, generally compliant, or non-compliant both overall and in relation to AML specifically.

A practice is considered AML-compliant if no or very few and only minor areas of non-compliance have been found and no or very few and only minor corrective actions or recommendations are required. A generally compliant rating is given if minor amendments to Policies, Controls and procedures (PCP)s are required or where practices may have insufficiently verified a client's source of funds on a minority of files reviewed, which would indicate that the issue is not a systemic failing.

A non-compliant overall rating is typically reached when areas of non-compliance have been identified, such as when PCPs are inadequate, there are systemic failings in undertaking CDD and/or the practice's approach to monitoring and mitigating risk is inconsistent or not adequately documented. If a practice is found to be non-compliant in relation to AML, the default position (which may be deviated from in certain limited circumstances) is that the overall rating for the report is non-compliant. In rare cases, an AML non-compliant practice may not receive an overall non-compliant report where the practice has high levels of compliance in other areas tested. In such cases, the report may be considered as generally compliant overall. It is important to note that the overall rating of a report does not affect how the CLC manages the practice into compliance.

⁴ See case study 2 for an inspection of a very large practice



Wider Evidence & Analysis

Alongside our work above, we also have a separate Risk Agenda which is an annual update of key concerns flagged by practices, and those we have noted / want to communicate to the regulated community. The above are further supported by newsletters, which also cover AML, and webinars.

The CLC also considers information from other forums to inform AML workstreams. For example, if related leads or information emerge via non-AML meetings, such as on sanctions or insurance, we use that information to provide an extra insight into our AML analysis (which helps to reduce potential risks / falling into a 'tick box' approach) and support the regulated community by developing and publishing guidance materials. We also review its practical application, i.e. how the guidance is actually used in real world situations. This is most commonly seen with practice's adapting the CLC's AML Guidance (which contains a sample AML policy) within their policy documentation, the practical application of which is then tested during inspections.

In addition to this we are an active part of several AML forums, where intelligence and trends are shared in both directions, and evaluated. This adds additional support and fresh insights to our rolling review of ongoing issues and is particularly helpful in flagging specific new risks (while allowing us to assist other regulators in the same manner). CLC officials regularly attend meetings of the:

1. Legal Sector Affinity Group.
2. Legal Regulators AML Forum.
3. AML Supervisors Forum.
4. Legal Sector Intelligence Sharing Expert Working Group.
5. Cascade.

Intelligence sharing and advice is also shared formally, and informally, outside of formal Forum meetings. And as part of our ongoing work, the CLC is an active partner in contributing to the development and ongoing improvement of professional body AML supervisors.

Please see Annex B for a summary of the AML sources we both use and contribute towards and which inform our work (and those of partners we share evidence with).

Trusts and Company Service Providers (TCSPs) – Thematic Review

In terms of supporting our wider compliance work, and as part of a gap analysis (to help to assess risks fully), the CLC is undertaking a Thematic Review of all CLC regulated practices. The aim of this analysis is to understand the nature and extent of the trust and company services work being undertaken by CLC practices, which will assist in informing our ongoing AML monitoring programme.

As part of the review, we are proposing to analyse the risks of CLC practices acting as trustees and/or assisting in or setting up trusts, which in our view is the relevant work captured under the 2017 AML regulations. A questionnaire specific to trusts was sent out to CLC practices in September 2022 as a first step in information gathering prior to more detailed work with some practices, and we intend to report back to OPBAS in 2023.



Breach Reporting and Monitoring

The CLC is obliged by Regulation 46 to encourage its regulated community to report AML breaches. We manage this important area in several ways, including:

- Through the introduction of the CLC's Whistleblowing Policy which enables the regulated community to make anonymous reports of suspected illegality, including money laundering concerns.
- Publishing a range of guidance and resources on breach reporting and making suspicious activity reports (SARs) in the AML Toolkit.
- Providing targeted training to Money Laundering Reporting Officers, including on their reporting obligations, as part of our national AML training roadshow in 2019.
- The CLC's approach to supervision and regulation establishes strong working relationships with practices, encouraging transparency and active engagement.
- Practices can seek guidance and discuss compliance issues at an early stage, which prevents more serious problems from manifesting at a later stage and provides an early insight into potential weaknesses in a practice's controls.
- The CLC is currently consulting on changes to its Continuing Professional Development (CPD) regime which is likely to introduce mandatory training requirements for people in specific roles in regulated entities, including the MLRO and other key personnel. This will allow us to address any particular needs annually through the additional tool of CPD.

Example: CLC Approach & Actions

During the reporting period the CLC was notified by a Licensed Conveyancer (Person 'A') of widespread AML concerns with a Solicitors Regulation Authority (SRA) firm in which Person A was employed. The concerns were sent to the CLC by email on 5 May 2020. The CLC reviewed the information and, in light of the seriousness of the AML concerns, made the decision to refer the matter to the SRA directly. The matter was formally referred to the SRA on 25 June 2020.

The CLC was informed that the SRA investigated the matter and took disciplinary action against the firm due to a number of AML breaches including not having a compliant PWRA, having non-compliant AML policies and procedures, inadequate staff AML training, not making the necessary source of funds checks in relation to one particular transaction and a lack of client/matter risk assessments.

A Regulatory Settlement Agreement (RSA) was reached between the SRA and the firm with the result that the firm paid a financial penalty. The SRA informed the CLC that this decision was published on the SRA website in late June 2022.



Ongoing Monitoring

Our approach to ongoing monitoring is reviewed at various junctures throughout the year. Typically, our approach would call for a review of risks/approach in the following situations:

Core

- When new AML legislation is introduced.
- When trends and/or patterns emerge from monitoring (see below).
- Following analysis of disciplinary decisions.

Supporting

- When new information on risks is observed by the CLC or emerges in a particular sector of the regulated community; individual; practices; or clients of CLC practices.
- With Forums - we also engage with these as a way of further checking what we have is right - and whether we need to amend our approach.

The above approach is not static, and entity records are updated in the RSM intelligence log and shared folders (for all relevant CLC staff to access as necessary).

As part of the licence renewal process, entities and individuals are also required to declare whether they have been the subject of disciplinary investigations or insolvency proceedings (e.g. under AML or related issues).

Communication & Engagement on AML

We are in keep the regulated sector informed about developments in AML legislation, guidance and best practice. We do so by using a range of approaches to obtain and share information on related risks and themes.

These include:

- Monthly newsletters to regulated entities/individuals, which includes AML updates, alongside an approach of creating additional communications to cover specific risks when needed. The CLC makes extensive use of its website to publish updates on AML-related issues.⁵
- Social Media - the CLC has a LinkedIn page which is used to share reports and highlight issues, alongside Twitter updates.
- Regulatory Supervisory Managers - who provide advice and support as a core function of their role.⁶
- Our Risk Agenda⁷ – which includes AML as a key theme.
- Conferences – RSMs have recently spoken at two events where they covered topics including AML.
- Roundtables – with a range of practices depending on the issue and location, which also include AML.

⁵ Examples include:

-An update on amendments to AML legislation, in the new Economic Crime Act
<https://www.clc-uk.org/lawyers/advisory-note-economic-crime-act/>

-A post-Sanctions reminder of AML risks https://www.clc-uk.org/anti_money_laundering/

⁶ NB RSM's will also communicate with and visit a new practice in its first year, as part of its initial monitoring.

⁷ CLC-Risk-Agenda-2022.pdf (clc-uk.org)



Risk Assessments

CLC Risk Register

As required by Regulation 17(4) of the MLRs, the CLC developed a risk register to record a risk profile of each CLC regulated practice and sole practitioner.

The register covers key risks such as; geographical location of clients, % of overseas clients, % of remote clients and method of client verification.

Levels of risk for each entity are determined by multiple and specific criteria, each of which is attributed a risk score of high, medium, or low. (See Table below). An overall risk score for each entity is then calculated based on the total score from all criteria.

The development of the risk areas was based on the CLC's Red Flag Indicators, Legal Sector Affinity Group Guidance, MLRs, National Risk Assessments and the CLC's Anti-Money Laundering and Combating Terrorist Financing Code.

The information that informs the risk register is almost always collected during onsite inspections, remote/desk-based reviews, but could also be informed through other sources such as intelligence received. The risk ratings feed into the monitoring team and influence the planning of inspections and other monitoring procedures.

Historical information is also utilised (such as previous inspection reports) to build up a rounded picture.

Further insight and information is also obtained (and shared) via a range of AML forums. These provide a useful, regular opportunity to benchmark activity, and obtain clarity. (For example; over the content of new legislation; international developments and AML threats; relevant case studies; and discussion on due diligence trends).

This information is also used to inform and plan our annual inspection programme, understand specific areas of risk, and identify any trends within the supervised population.

The impact of the COVID-19 pandemic reduced the CLC's ability to conduct onsite inspections during this reporting period. Wherever possible, any inspections that could not be completed onsite were completed remotely. Out of a total of 55 inspections in 2021, the CLC conducted 36 inspections remotely and the remainder on site.

Practices Risks (Engagement & Mitigation)

Related to the above, we also actively and regularly encourage those we engage with to mitigate risks to their businesses by having:

- Robust AML policies, controls, and procedures (PCPs) in place which are tailored to their business needs, reviewed regularly and put into operation effectively
- Appropriate and regular AML training for staff
- Appropriate CDD/EDD on clients and donors. (See Annex C for further details).
- A practice-wide risk assessment that is reviewed regularly
- Source of funds/wealth checks where necessary
- Matter and client-based risk assessments
- Ongoing transaction monitoring
- An appropriate ratio of Authorised Persons (in terms of the 2007 Legal Services Act) to non-authorised fee earners.



Table 1

LC – Categories of Risk Factors			
	Common High Risk Factors	Common Medium Risk Factors	Common Low Risk Factors
1	<ul style="list-style-type: none"> No AML Policy or Procedure 	<ul style="list-style-type: none"> Nationwide client base 	<ul style="list-style-type: none"> Compliant and robust PCPs
2	<ul style="list-style-type: none"> No practice-wide risk assessment 	<ul style="list-style-type: none"> Less than 75% of clients met in person 	<ul style="list-style-type: none"> 100% of Clients met in person
3	<ul style="list-style-type: none"> MLRO not completed enhanced AML training 	<ul style="list-style-type: none"> Minor amendments required to PCPs 	<ul style="list-style-type: none"> Dual verification of client ID
4	<ul style="list-style-type: none"> No evidence of CDD/EDD on files 	<ul style="list-style-type: none"> Only one type of ID verification 	<ul style="list-style-type: none"> Local client base
5	<ul style="list-style-type: none"> No source of funds/wealth checks on files 	<ul style="list-style-type: none"> Self-assessed risk level as medium 	<ul style="list-style-type: none"> Regular AML training for MLRO and relevant staff
6	<ul style="list-style-type: none"> Poor AML culture through organisation 	<ul style="list-style-type: none"> Matter risk assessments are not repeated at later stages in the transaction (one stage) 	<ul style="list-style-type: none"> Consistent application of source of funds/wealth checks on clients
7	<ul style="list-style-type: none"> High % of clients outside local area and/or overseas clients 	<ul style="list-style-type: none"> Source of funds checking is completed but not thorough enough/incomplete 	<ul style="list-style-type: none"> Documented evidence of CDD/EDD and source of funds & wealth on file
8	<ul style="list-style-type: none"> Lack of matter-based risk assessments or wholly inadequate assessments 	<ul style="list-style-type: none"> Lack of internal suspicion reports 	<ul style="list-style-type: none"> Comprehensive three stage (initial, interm and final) matter based risk assessments



Risk & Compliance Data

Table 2

General Population Data ⁸		
Size of relevant supervised population (those supervised for AML purposes only)	(6 April 2021 to 5 April 2022)	2020/2021 (Previous period)
No. of relevant practices	167	194
No. of relevant sole practitioners	59	32
Total size of population	226	226
Total no. of 'BOOMs' as defined in Regulation 26	598	598

- The total number under table 1 is 226. This is lower than the total of practices in table 2 below (equalling 210) used to assess AML risk rating. The reasons for the discrepancy of 16 practices are summarised below:
 - o During the period 8 new practices came into CLC regulation that need to be fully rated. The practices were reviewed before coming into regulation to ensure they had compliant policies. However as they had not been trading, they could not provide the full AML / compliance data needed to calculate a risk rating, i.e. Until a practice has completed a period of transactional work there is a limited set of risk data (For example, a practice may state that 90% of client will be local but depending on instructions when they start trading this could change and would not be accurate). New practices are subject to closer monitoring than established practices for at least the first six months of operation.
 - o 8 of the practices that went live during the period 06/04/2020 - 05/04/21 are being inspected during the current period, this was delayed due to Covid-19 restrictions.

⁸ Copy to come

Table 3

AML / CTF Population Data			
Money Laundering or Terrorist Financing Risk		Relevant period (6 April 2021 to 5 April 2022)	2020/2021 (Previous period)
• High risk	Number of practices	9	6
	<i>Number of which are sole practitioners</i>	2	1
• Medium Risk	Number of practices	28	26
	<i>Number of which are sole practitioners</i>	0	1
• Low Risk	Number of practices	173	155
	<i>Number of which are sole practitioners</i>	32	28



Risk Ratings of Practices

Looking at the data table above it is clear that the overall risk profile, in all categories, has remained broadly stable.

At the end of the previous reporting period, there were 187 relevant practices. Of which:

- 6 practices were considered high risk.
- 26 were considered medium risk.
- 155 practices were considered low risk.

By the end of this reporting period, there were 210 practices, of which:

- 9 practices were considered high risk.
 - This is an increase of 3 practices in total numbers.⁹
 - It also consists of a very small percentage increase, from c.3% to c4% of practices, compared to the preceding reporting year.
- 28 were considered medium risk.
 - This is an increase of 2 practices in total.
 - Though it is a minor fall in the overall percentage of practices from c.14% to c13.5%.
- 173 practices were considered low risk.
 - This is an increase of 18 practices in total.
 - However, this is also a minor fall in overall percentage of practices from c.83% to c.82.5%.

The CLC is looking to do a full review of practice risk profiling in 2023. This will be informed by a mandatory regulatory return (a data-gathering exercise beginning in November 2022), targeted reviews and collection other relevant data from practices.

⁹ We believe the increase is a result of our more efficient/extensive monitoring in inspections, e.g. further noting issues such as Source of Fund deficiencies

Where such issues have occurred we have managed practices into compliance.

The CLC does not sign off reports until compliance has been achieved



Chart 1

Number of CLC Practices in Each Risk Category (This Reporting Period - 2021/2022)

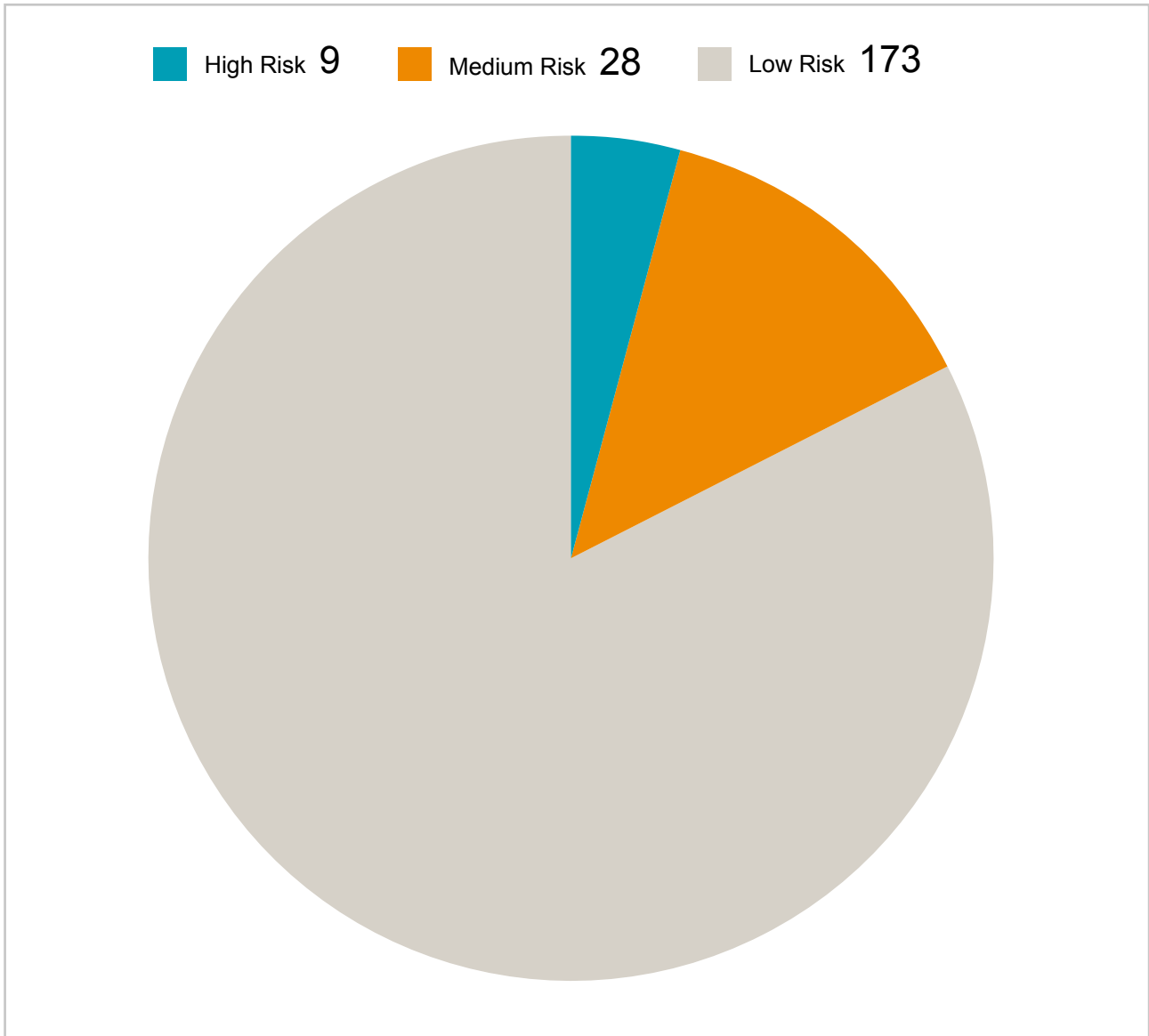
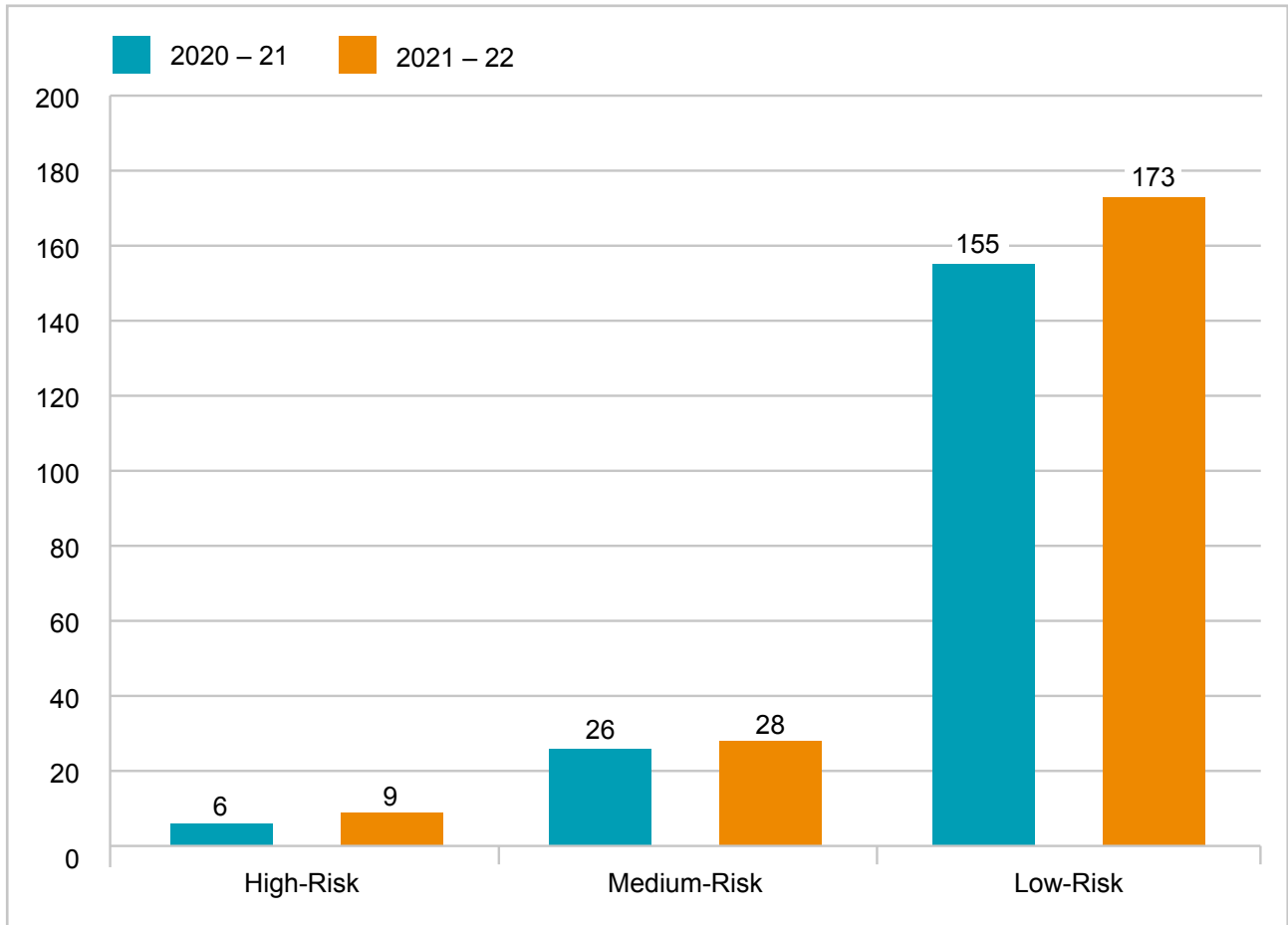




Chart 2

Comparison of Number of CLC Practices in Each Risk Category: Over Last 2 Reporting Periods (2020-21, and 2021/2022)





Inspections

Inspection Data

During the reporting period we focused on practices that were high or medium risk, meaning that a smaller group than usual was inspected. Over the rolling three-year period, we will continue to cover the full regulated community.

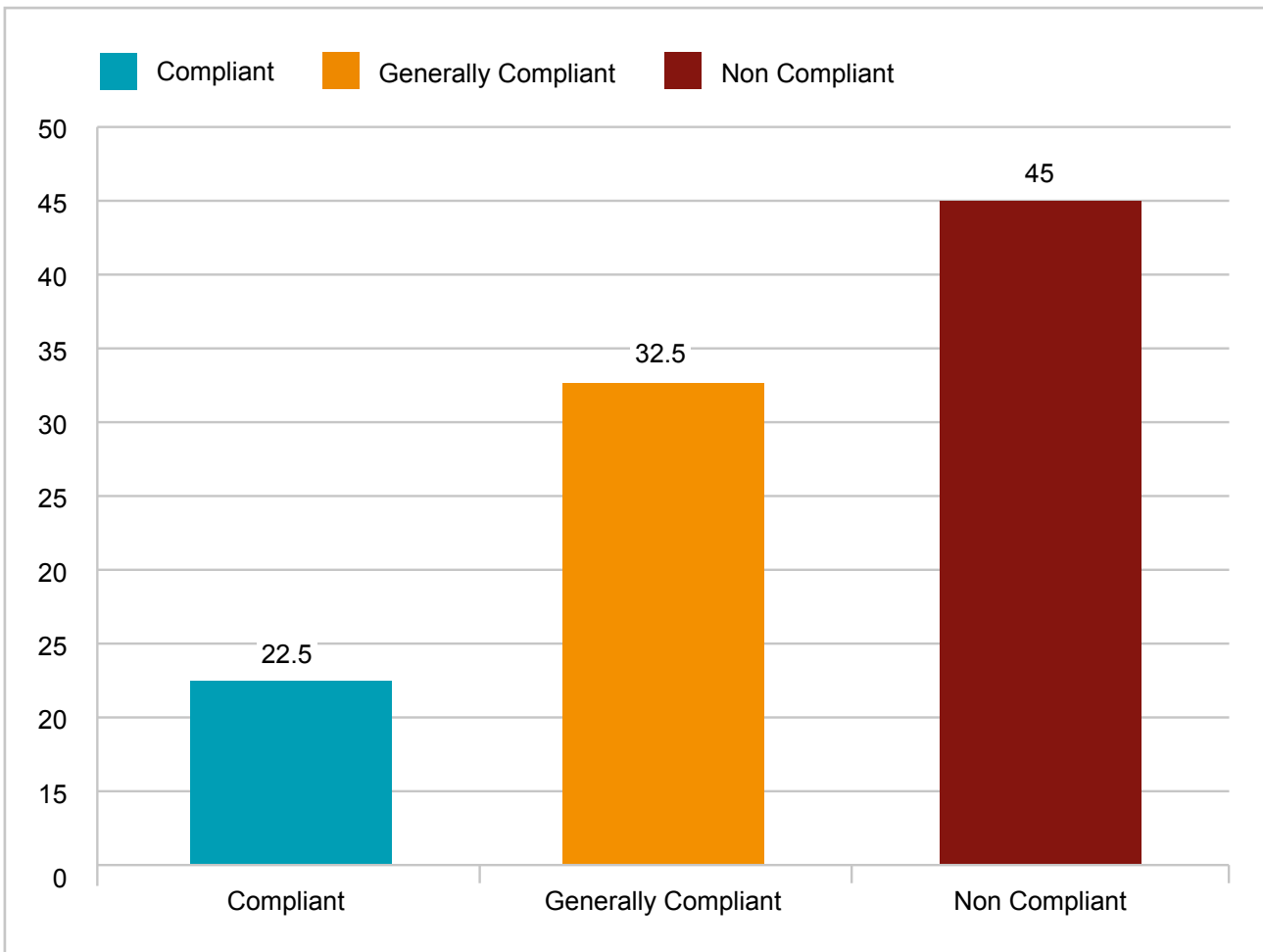
- 40 practice monitoring inspections were carried out.
- 17 inspections were remote.
- 23 were completed onsite in accordance with public health advice and Covid-19 guidance.

The AML findings of these inspections were that:

- 9 practices were considered compliant. (c.22.5% of inspections).
- 13 were considered generally compliant. (c.32.5% of inspections)
- 18 were considered non-compliant. (c.45% of inspections)

Chart 3

AML Findings as a percentage (Inspections)





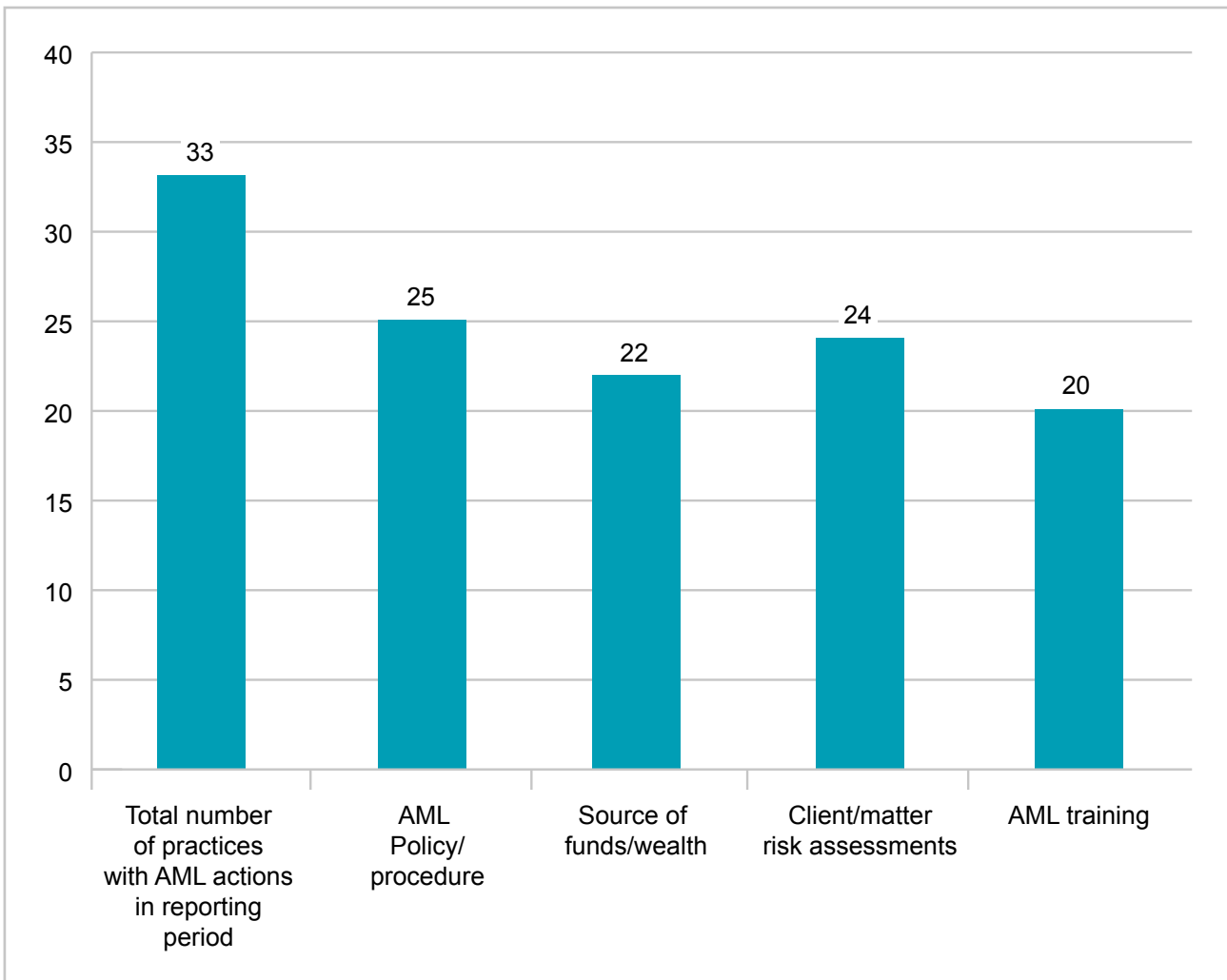
Corrective actions

See below for further details and range of actions taken.

- The total number of Practices that had AML corrective actions (of any kind) in the reporting period: 33
- The number of practices required to update AML policy/procedure as an action: 25 (c. 76% of practices that had AML corrective actions).
- The number of practices with Source of Funds / Source of Wealth actions: 22 (c. 67%).
- The number of practices with client/matter risk assessment actions: 24 (c. 73%).
- The number of practices with AML training actions: 20 (c. 61%).

Chart 4

AML corrective actions in the reporting period





Timeframes of AML actions and further work

Practices are typically provided with 14 days from receipt of the inspection report to complete any AML corrective actions and/or rectify areas of non-compliance.

RSM's work closely with practices in the post-inspection period to ensure that AML actions, and any other actions, are complied with fully and no report would be signed off which has outstanding actions. If any practices fails to comply with the actions in the required time - or by any extension given - then the CLC would remind practices of their obligations under the Code of Conduct and, in rare cases, consider disciplinary action based on a failure to cooperate with the CLC.

Inspection Themes & Mitigations

We found that, of the 33 practices which had AML corrective actions, 25 (76%) had an AML policy and/or procedure which needed to be updated and/or revised to be in line with the CLC's AML standards and current legislation.

The CLC developed an internal AML policy and procedure checklist in this reporting period (which brought together all standards etc into one document) and used this consistently to review AML policies and procedures. We also updated the CLC's own template AML policy to reflect the latest obligations of the Fifth Money Laundering Directive (5MLD) and are also looking to request information about AML policies/procedures in the Regulatory Return to establish sector wide compliance.

We also found issues with source of funds and/or source of wealth on a number of inspections. In the relevant period this resulted in 22 practices (67%) being required to undertake actions which related to source of funds and/or source of wealth. In the reporting period the CLC amended the inspection report to ensure that this area is being reviewed thoroughly at every inspection and we are currently working on a source of funds checklist which we hope to provide to the profession to mitigate these issues. We also hope to cover source of funds/wealth in the upcoming CLC AML workshops.

We also identified issues around AML training: of the 34 practices which had AML corrective actions, 20 (61%) had actions relating to AML training. The CLC is planning to provide AML workshops again next year to supplement practice's own training in AML and will also gather further information in this area from the Regulatory Return to establish a clear picture of current compliance across the sector.

Finally, issues were identified around client and matter-based risk assessments. It was found that 24 practices (73%) either didn't undertake client and/or matter based risk assessments or had risk assessments in place which were inadequate. As a direct result, the CLC developed and published a client and matter-based risk assessment in October 2021.



Enforcement

During the period covered by this report action by the CLC led to:

- Membership cancelled – 1
- Suspension of licence to operate – 0
- Number of fines and total sum - 1 (£1,187.50 – see Case Study below).

The corresponding numbers for the reporting year prior to this are zero - for each categories.

During the reporting period we continued to develop our Sanctions and Enforcement Policy. The Policy sets out how we investigate and take disciplinary action for breaches of the Code of Conduct and regulatory requirements. This work will continue into 2023.

The CLC also currently has ongoing disciplinary investigations against practices and individuals, arising from this period (which we will be able to report on in subsequent annual AML reports).

Some of these cases relate to breaches of the Anti-Money Laundering and Combatting Terrorist Financing Code and the MLR.

We believe our overall high rate of compliance is evidence of the effectiveness and impact of our supervisory strategy.

Analysis of Risks & Main Themes

Strategy / Context

In a similar vein to the 2017 NRA, the most recent (2020) NRA identified legal services as being at high risk of money laundering and low risk of terrorist financing. The NRA 2020 stated that there is no evidence that risks in the sector have changed since 2017, and that conveyancing services related to residential and commercial property are still considered as presenting a high risk of being exploited by money launderers.

Also of relevance to the CLC is the NRA's assessment that legal service providers may also facilitate money laundering through trust or company service provision (TCSP). The NRA concluded that the risk of TCSPs being exploited by money launderers was high although it has been noted that their assessment of trusts by themselves was low.

Some CLC practices offer trust related services (for example acting as a trustee in estate administration) and our thematic review in this sector will provide a detailed assessment of the risks, taking into account the NRA.

(The CLC provides summaries of both the 2017 and 2020 NRAs on its website, including the new threats and vulnerabilities arising as a result of the pandemic).

Trends / Themes (Areas of Risk)

The following section highlights the main risk areas identified via our collective suite of AML process and includes a brief note of mitigation plans to reduce the risk profile of each issue. These have been identified, and addressed, through a range of measures, including inspections.

It is worth noting that these mitigations (like the risks they shadow) are always evolving and constantly reviewed, to help ensure they are as effective as possible.



Inadequate client identification and verification

CLC practices are obligated to identify clients (AML Code, 11a). Failing to identify clients properly can lead to high risk situations such as acting for those on the Treasury Sanctions list. CLC inspections and intelligence received by the CLC (such as in mortgage fraud cases) have highlighted this area as a significant general risk.

Mitigation: We are aware this is a sector-wide issue. The file reviews which the CLC undertakes scrutinise a practice's approach to client ID and ensures that any issues are picked up and then highlighted to the practice as part of an inspection report. We are also looking to revise our Handbook (the Code for Conveyancers, and Guidance) to refresh and refocus advice on this matter.

Source of Funds and Source of Wealth checks

CLC practices are obligated to obtain evidence of the client's Source of Funds (SOF) and Source of Wealth (SOW) under the CLC's AML Code, 11c, and under the relevant AML regulations.

CLC inspections have consistently highlighted SOF and SOW as one of the most consistently found AML breaches of the Code, and we have live disciplinary cases on this matter.

Mitigation: The CLC monitors source of funds and source of wealth checks in desktop file reviews during inspections, and to standalone monitoring exercises on other practices. In addition, we are also in the process of finalising a comprehensive source of funds checklist/questionnaire template, for practices to adopt and use.

Inadequate Client and/or Matter risk assessments

The obligation to conduct a risk assessment at the matter/client level is found within the CLC AML Code (paragraph 9e), LSAG guidance, and the MLRs.

Another frequent finding in CLC inspections relates to practices failing to undertake matter risk assessments and/or conducting inadequate risk assessments. Another linked finding is sub-optimal use of risk assessments by some practices.

Mitigation: The CLC has developed a client and matter AML risk assessment which practices are able to use and adapt for themselves. It can be found in the AML toolkit (see Resources). This aspect is also checked as part of file reviews and standalone monitoring exercises.

Inadequate AML training

AML training is critical in ensuring that CLC practices are up to date with the latest AML legislation and guidance. The obligation to undertake regular AML training is contained in paragraph 11b of the CLC's AML Code.

The quality and frequency of AM training is (particularly) examined during CLC inspections. This has revealed to us that many practices have not ensured that staff undergo AML training regularly and/or are aware of new legislation that has come in (such as the fifth money laundering directive, 5MLD). Our follow-up work has shown some practices have not adequately ensured their staff had had regular refresher training.

Mitigation: If and where any deficiencies are found, CLC practices are required to undergo AML training (or enhanced AML training as appropriate) as part of the inspection actions. Proposed changes to CPD will see mandatory training in areas of particular relevant for certain individuals such as MLRO or HoLP or HoFA as a whole to ensure a base level of ongoing competence in addition to any prescribed remedial CPD.



Use of client account as a banking facility

Client accounts can be used to launder money. CLC practices are prohibited from using the client account in this manner under the CLC Accounts Code, paragraph 2.2.

Disciplinary investigations and CLC inspections have highlighted practices allowing their client accounts to be used inappropriately (for example holding money without an underlying transaction) which raises concerns about money laundering.

Mitigation: Client account information is obtained from the practice through a variety of means: inspections, client account reconciliations and accountant reports. This information is then checked by the monitoring team and is then followed up by the practice's Regulatory Supervision Manager (RSM) or, if prior to an inspection, by the relevant inspector. Our Accounts Code also specifically prohibits such activity, and it is a core focus of our inspections (though we course understand this risk exists and is shared across the industry).

Poor AML culture

A wider AML culture determines an organisation's approach to every aspect of AML. A poor culture can, in the CLC's experience, undermine the practice's AML record in every area. We now require inspectors to capture information about a practice's AML culture, especially as we believe that when significant AML issues are identified they are seldom isolated.

Mitigation: CLC inspectors regularly assess the AML culture of every practice they inspect and address any issues through tailored inspection actions, depending on each case. (In wider terms, it is worth noting that assessing professional culture as a whole has long been a core CLC approach, prior to AML legislation).



Emerging Risks (Themes & Threats)

The CLC has worked with partners to assess what the key evolving risks may be. We have identified these as some of the main issues we need to keep our focus on, in order to develop mitigations.

Cryptocurrency

The use of such assets raises significant issues for identifying the source of funds/source of wealth which CLC practices are obligated to do under the AML Code.

Virtual assets are being increasingly proposed to be used for various transactions and we are seeing an increase in practices contacting the CLC to enquire about our views on accepting them as part of conveyancing transactions. The CLC is aware that insurers may be reluctant to offer insurance cover where cryptocurrency assets are being used and we plan to engage further on this issue with our partners.

Beneficial Ownership

CLC practices are obligated, as part of their due diligence processes, to identify who the ultimate beneficial owner of a company is under paragraph 11a of the CLC's AML Code.

Legislation has been passed to introduce a Register of Overseas Entities which CLC practices must be ready to incorporate into their client due diligence model.

The CLC is monitoring the implementation of the Register of Overseas Entities and will be looking to produce some helpful information for CLC practices to comply with this new obligation going forward. We are also monitoring and are aware of the details of investigative journalism (such as the Pandora Papers in October 2021) which has revealed significant concerns around offshore companies with opaque ownership being used to purchase property in the UK.

Sanctions

This is a distinct and separate workstream to AML, and we are clear to distinguish. However, the CLC is monitoring it very closely to ensure on the AML side as well, that any developments that impact this field of work are identified and shared. As sanction details / guidance continues to develop we will be closely following and reflecting on developments. The CLC would be supportive of measures that would support fast-track discipline and enforcement (which would require further legislation).



Planned Workstreams (on Identified Risks / Themes)

As evidence, insights and risks develop, the CLC is continuing to evolve its approach to effective risk-based AML supervision. We are developing a monitoring plan that covers the 6 separate categories outlined below.

To note –

- These categories have specifically emerged from the lessons and trends noted in this report.
- The plan is not exhaustive and is regularly being reviewed.

A. Guidance

1. A revision of our Client Due Diligence / Know Your Customer section of our Handbook (i.e. the Code for Conveyancers, +and supporting Guidance) to further enhance our AML regime and assist in the prevention of economic crime generally.
2. The finalisation of a Source of Funds checklist which will assist practices in obtaining the required evidence.

B. Data

3. Develop reports to identify if earlier risks have been addressed, and further identify new ones.
4. Scope out how SARs may be captured by the Risk Register¹⁰.

C. Approach / Models

5. Continuing to design and deliver a risk-based approach to AML supervision, including through the prioritisation of inspections for high-risk and non-compliant practices.
 - This will include a change in our inspection model (as noted, one of our key tools) to further develop a more risk-based approach.
 - This will also ensure focus on the risk profiles/themes we have identified earlier, as well as the emerging risks above.

D. Communications & Engagement

6. Increased emphasis on communicating risks and guidance for practices.
 - Including a renewed focus on a tailored sets of updates aimed at MLROs and compliance staff.
 - AML workshops to be held throughout England and Wales in 2023.

¹⁰ As noted above the CLC intends to obtain sector wide information about SARs in the upcoming Regulatory Return and will use that information to plan further monitoring and other measures if necessary.



E. Compliance

7. A further evaluation of our approach to enforcement and sanctioning in response to noncompliance with AML regulations and requirement.
8. Reviewing the outcomes of disciplinary cases which relate to AML, to establish whether any changes to the relevant codes are necessary or whether our approach needs to be altered in any way when drafting allegations.

F. Other /Additional Support

9. Use the channels above to assess what additional training and support we might offer to our regulated practices to address knowledge gaps and risk areas.
 - Including a specific focus on emerging risks and themes above.

Resources and Guidance

The CLC publishes a range of AML advice and resources for the sector, which are regularly being updated.

- A key component is the AML Toolkit¹¹. This dedicated 'one-stop shop' includes AML guidance developed by the CLC and forums we contribute to (e.g. LSAG), as well as links to relevant policies, compliance case studies, the CLC's sectoral risk assessment. We add to it over time as with the AML Risk Assessment Template.¹²
- The AML Toolkit also features several links to external resources such as the National Crime Agency's NRAs and suspicious activity reporting guidance, supporting FAQ, documents, as well as relevant legislation and regulations.
- Our successful and long-standing regulatory model, with close engagement between practices and RSMs, means that they are not cautious about contacting the CLC about AML guidance. This helps ensure a range of issues are frequently managed and resolved through signposting, calls and informal action, before more formal enforcement actions are necessary.

¹¹ <https://www.clc-uk.org/lawyers/anti-money-laundering-toolkit/>

¹² AML Risk Assessment Template.



Case studies

The CLC has a range of examples to demonstrate how our approach identifies and manages developing AML risks and themes. The following 4 case studies are indicative of some of our broader work and focus on this issue.

Case Study 1

On 24 November 2021 the CLC issued a fine for AML breaches to Practice A in accordance with the CLC's Licensing Alternative Business Structures – The Licensed Body (ABS) Licensing Framework.

The practice's RSM had identified during a review of transaction files at a routine inspection that this Licensed Body had failed to verify or adequately verify the source of funds on a number of matters. This included those we considered under our risk register to be high risk and should have attracted a level of further enquiry, along with enhanced due diligence.

Although the practice was brought back into compliance through steps set out and monitored by the firm's RSM, the breaches, outlined below, were considered serious enough to require formal enforcement action.

The CLC considered that the conduct of the firm breached the following:

- Outcomes 2 and 3 of the Anti-Money Laundering and Combatting Terrorist Financing Code;
- Specific Requirements 6, 7, 9(e), 11(a) and 11(c) of the Anti-Money Laundering and Combatting Terrorist Financing Code; and
- Regulations 28(11)(a) and 33 of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended).

The CLC issued a formal and public Enforcement Determination Notice to the firm (see below).

In determining whether a financial penalty is an appropriate action and if so, the appropriate amount of the penalty, the CLC considered whether the act or omission was deliberate, the impact (potential or actual) of the behaviour on a client, or clients in general, the reputation of the legal services sector, whether the breach was a one-off or a repeated issue and the attitude of the individual or body. The CLC also considered whether the financial penalty is proportionate to the breach the resources of the Licensed Body.

The financial penalty imposed on the practice was calculated in accordance with the CLC's Financial Penalties Framework and represented a collective penalty for numerous breaches to the AML & CTF Code. The CLC assessed the practice's conduct under Penalty Bracket 2 (Medium Conduct and Low Impact assessments) and reduced the financial penalty by 5% from the median for mitigating factors (including the practice's cooperative approach in investigating and responding to the CLC's requests in relation to the inspection findings).

NB Enforcement Determination Notices record enforcement decisions of the CLC in respect of licensed bodies (Alternative Business Structures) and/or and their regulated role holders, owners and employees, in relation to the breaches of the CLC's Codes they have committed. If the entity wishes, they may appeal the Determination to the Adjudication Panel.

Code breaches	Breaches of the CLC's Anti-Money Laundering and Combatting Terrorist Financing Code and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended)
Date of enforcement notice and penalty	24th November 2021 Financial Penalty: £1,187.50

Additional details of the CLC's Regulation and Enforcement Policy (including clauses on the publication of determinations) are available [here](#).



Case study 2

A routine inspection of Practice B was conducted during the reporting period (October 2022). The practice is considered very large, and so the inspection was conducted by a team of four RSMs onsite over a period of four days.

A review of the practice's AML PCPs and compliance logs was undertaken prior to the inspection and these were stress tested during the inspection through a combination of staff interviews and file reviews. The review of the PCPs ahead of time also informed the RSM team's planning of the inspection, including areas of focus (further detail below).

The inspection included approximately 20 hours of interviews with staff of varying levels of seniority, including the practice's MLRO, the Chief Operations Officer, a Head of Site, the Head of Re-Mortgage, the Director of Operations, Quality and Compliance, the Service Centre ID Assistant Team Leader, the Risk Manager, a member of staff from the New Business Team, and various conveyancing fee earners.

Responses to questions about risk, training, CDD/EDD, PCPs and internal controls were provided by this cross section of staff during the inspection and a high level of understanding of the practice's policies was demonstrated.

Findings –

However, the practice was found to be non-compliant with AML predominately on the basis of 1) updates to the practice's AML policy documents and checklists being required and 2) the outcome of some transaction files reviewed.

The required updates ranged from minor oversights like failing to update the name of the MLRO to failing to include the requirement to report discrepancies to Companies House and outline how ongoing monitoring is undertaken. A required action to update and amend the policy documents and checklists was included in the inspection report which the practice has completed.

The non-compliance evidenced on some transaction files included failures in obtaining specific documents detailing the accrual of funds on purchase transactions and making assumptions that funds accumulated were reasonable in the circumstances.

Additionally, a targeted review of suspicious activity reports (SARs) and the associated files was conducted. On two occasions reviewed the practice had submitted a SAR to the NCA seeking a defence to money laundering offences (DAML SAR) in circumstances where the practice could not have formed a complete view about a suspicion of money laundering or was aware of the use of mule accounts to circumvent Chinese foreign exchange control.

A complete view could not be formed because relevant information/documentation was not requested or obtained by the practice, including State Administration of Foreign Exchange (SAFE) bank forms, which confirm funds originating from China have been authorised for transfer out of China.

The CLC outlined its expectations to the practice in the following required actions:

- *"The practice is required to ensure it obtains full evidence of clients' source of funds (and wealth, as appropriate) rather than relying on anecdotes or perceptions/assumptions of clients' means. This will also allow for the detection of red flags arising from the transaction history."*
- *"In matters which have not exchanged a DAML SAR should not be used as a routine mechanism for seeking protection against committing offences under the Proceeds of Crime Act 2002 (POCA). Where funds are known or suspected to have entered the UK via mule accounts or underground banking and where exchange has not yet taken place and there is no contractual obligation to proceed, the retainer must be terminated. Continuing an arrangement with a client knowing they have committed an offence and seeking a DAML for comfort is considered to be unethical and may also be an offence under the POCA."*



The practice responded to the inspection report to each of the aforementioned actions as follows:

- *“We have reiterated to all conveyancers and support areas the importance of obtaining evidential information when dealing with source and wealth of funds and have stressed the importance through our Learning & Development Team too.”*
- *“Communication has already been sent to the Team which deal with NCA notifications to reiterate that matters where we become aware of or have suspicion to believe that foreign exchange controls may have been circumvented we should still do an NCA report but also disinstruct. A reminder to Conveyancers has also been sent to this effect so that they can flag as early as possible.”*

Case study 3

An onsite inspection of Practice C took place on 27 April 2021. The practice was a medium sized recognised body (RB) with a turnover below £500k at the time of the inspection. The inspection looked at a number of CLC codes, including AML.

With respect to AML it was found that the practice was non-compliant due to the following findings:

- *The practice had an undated AML policy which referred to 2006 and which was out of date in many respects;*
- *The AML policy did not make any reference to the key requirements and obligations of the Fifth Money Laundering Directive (5MLD);*
- *The training of staff was informal and ad hoc. It was noted that the MLRO was unable to confirm whether there was a training log;*
- *It was noted that client/matter risk assessments were not being conducted on file and had not been since 2019;*
- *Source of funds checking was not obtained on some files and, when obtained, was found to not be sufficiently rigorous with significant gaps such as no explanation as to where some elements of the funds was derived from.*

In light of the findings, the practice’s AML non-compliance rendered the entire report to be overall non-complaint. A number of actions were developed in order to ensure that the practice came back into compliance with the various CLC codes.

With respect to AML four discrete actions were created which were:

- *The practice is required to update its AML policy and procedures to bring it into compliance with the requirements of the Fifth Money Laundering Directive (5MLD) and the new LSAG guidance (Anti-Money Laundering and Combating Terrorist Financing Code 6, 9a)*
- *The practice is required to ensure that all relevant staff receive appropriate training and that this is recorded in a training log which is kept up to date (Anti-Money Laundering and Combating Terrorist Financing Code 9b)*
- *The practice is required to confirm that risk assessments will be carried out on all files and provide evidence to the CLC of how this will be done as well as an example risk assessment (Anti-Money Laundering and Combating Terrorist Financing Code 7 and 9e)*
- *The practice is required to produce a source of funds checklist to be used from now on all new matters. The draft checklist must be provided to the CLC for review (Anti-Money Laundering and Combating Terrorist Financing Code 11c)*



The inspection report was sent to the practice on 19 May 2021. A deadline of two weeks¹³ was provided to receive a response to the AML actions in the report. The practice responded in time to the AML actions (on 2 June 2021) and provided the CLC with an updated AML policy, confirmation that staff had undergone relevant training which had been recorded on the training log, a template client/matter risk assessment and an updated purchase questionnaire which included a source of funds checklist.

The responsible RSM for the practice reviewed the response and responded on 28 June 2021. A review of the AML policy revealed thirteen points which the CLC required to be amended including, for example, point 3 which noted that the new policy was missing aspects of 5MLD including the expanded situations in which Enhanced Due Diligence (EDD) was to be applied (for example when a transaction is complex or unusually large etc).

The RSM also requested further details and information in relation to the AML training. The source of funds checklist provided by the practice was found to be comprehensive and satisfactory from the CLC perspective.

The practice then contacted the CLC on 9 July 2021, responding to the further points raised. In this further response, the practice provided a further revised AML policy (along with some comments about the type of work they undertake¹⁴), noted that their AML training was not formalised and provided a client/matter risk assessment that they were using.

The RSM responded on 14 July 2021 and provided additional comments on the new AML policy. It was also requested that AML training be organised for all staff and formalised. It was suggested that such formal training should be repeated on an annual basis.

As a result of the review of the practice's risk assessment, the RSM requested that the risk assessment reflect the risk factors identified in the new AML policy (which was comprehensive in this regard).

The practice then responded on 30 July 2021, addressing the previous points made by producing a final revised risk assessment (Client/matter level), an amended AML policy, which included company AML checks, and confirmation that AML training would be undertaken once the AML policy had been approved by the CLC.

The RSM responded on 2 August 2021 – confirming that, after review, the AML policy was considered to be satisfactory to the CLC. The risk assessment was also described as being satisfactory and was more consistent with their new AML policy. The practice was asked to start using the risk assessment on all matters going forward.

The inspection report was not signed off at this point as we did not have confirmation that AML training had been undertaken and there were other outstanding matters. The RSM followed up this report on 10 January 2022 to ask whether the AML training had been completed (along with other matters not relevant to this report).

The practice responded on 11 January 2022 and confirmed that all staff had been given AML training on 16 November 2021 and had also completed a post training questionnaire.

From an AML perspective this was considered to be satisfactory. The report was not signed off at this point as there were other outstanding matters outside the scope of this report.

¹³ The CLC provides practices with two weeks to comply with AML specific actions in the vast majority cases, and four weeks for other actions.

¹⁴ The practice told the CLC that they very rarely acted for companies, and seemed to be suggesting they did not require any AML procedures for companies to be included.



Case Study 4

Practice D was an Alternative Business Structure (ABS) with a turnover of approximately £2m at the time of the inspection, which took place on 10 May 2021. The inspection was a routine one and was undertaken at the offices of Practice D. At the inspection a number of issues were identified with the practice's AML policies and procedures which led to a non-compliant rating in the AML section of the report. This finding, when taken together with the other findings, resulted in a non-compliant rating overall for the practice.

The AML section of the report contained the following findings:

- *The practice's AML policy devotes significant attention to property and mortgage fraud at the expense of describing the policy in relation to money laundering and the practice's actual AML procedures.*
- *The MLRO does not maintain an AML training log.*
- *Risk assessments on individual matters are not routinely undertaken beyond any checks completed as part of the onboarding process.*
- *Some checks are undertaken on source of funds and source of wealth but it was not clear that they were undertaken with sufficient rigour on all matters.*
- *The practice has not completed a detailed practice wide risk assessment.*
- *The practice has been accepting ID documents certified by the post office.*

As a result of these findings a number of actions were created for the practice to come back into compliance with the CLC's AML rules and standards. The actions specific to AML were as follows:

- *The practice is required to update its AML policy and produce a detailed AML procedure document to demonstrate that it complies with AML and CTF legislation (Anti-Money Laundering and Combating Terrorist Financing Code 2, 9a)*
- *The practice is required to ensure that all relevant staff receive appropriate AML training and that this is recorded in a training log which is kept up to date (Anti-Money Laundering and Combating Terrorist Financing Code 9b)*
- *The practice must produce a three stage (initial, interim and final) matter risk assessment which must be used from now on which reflects the new LSAG guidance (2021) and satisfies the 2017 AML Regulations and the Fifth Money Laundering Directive. The risk assessment must be provided to the CLC for review (Anti-Money Laundering and Combating Terrorist Financing Code 7 and 9e)*
- *The practice must create a source of funds checklist to be used on every matter going forward. This checklist must be kept on every transaction file and be supported by evidence obtained during the diligence process such as gifted deposit letters and bank statements. The checklist must be provided to the CLC for review (Anti-Money Laundering and Combating Terrorist Financing Code 11c)*
- *The practice is required to complete a practice wide risk assessment and to provide a copy thereof to the CLC (Anti-Money Laundering and Combating Terrorist Financing Code 7)*
- *The practice must cease accepting documents which have been certified by the post office for AML purposes (Anti-Money Laundering and Combating Terrorist Financing Code 11.1)*

The report was sent to Practice D on 24 June 2021 and the practice was given two weeks to respond to the actions above. Practice D responded to the AML actions in time, on 7 July 2021. Practice D provided a full response to each of the actions and attached a new AML policy, confirmation that new training programmes were to be introduced as well as sample training logs where training would be recorded, a new matter risk assessment which assessed risk in three stages (initial, interim and final), two versions of a source of funds checklist for internal and client use, a revised practice wide risk assessment and a confirmation that they would cease "immediately" to accept documents certified by the Post Office.



The RSM for Practice D reviewed the documents and information from the practice and responded on 23 July 2021, confirming that from the CLC perspective they were fully satisfied with the practice's responses to the actions except for the action which related to AML training. With respect to this action the RSM requested further details of Practice D's training programmes for all staff.

The practice responded on the same day (23 July 2021) and confirmed that Practice D had created a new training module around the new AML policy and also had a course on AML awareness in the induction which was then run as refresher AML training every six months. The practice also asked for some recommendations from the CLC in relation to raising general awareness among staff on AML issues. Practice D sent a further separate response on 26 July 2021 which went into some more detail about the various training programmes they had in place.

The RSM of the practice sent a further response on 4 August 2021. In this response, amongst other issues outside the scope of this report, the issue of AML training was addressed. The RSM outlined some expectations of AML training and noted that the CLC could not recommend any individual training provider.

The practice provided a final response on 10 August 2021 and confirmed that training on all the matters referred to by the RSM was scheduled as part of their training programme. Following this, other matters outside the scope of the report were followed up however it was concluded that the AML actions had been complied with (as AML training was now to be recorded and the training programmes were concluded to be satisfactory) and the report was signed off in this respect.



ANNEX A

Inspections

Further Context / Information on the CLC Model

As part of this approach, it is important to note that the CLC can also carry out an inspection at *no notice or short notice*¹⁵, where it is concerned that the apparent level of risk justifies doing so. Practice monitoring can also take place through subject specific questionnaires and surveys.

In each inspection we will review a sample of files, taking into account a range of factors such as the size of the practice and the licences and permissions which the practice has. When reviewing conveyancing files, the CLC places an emphasis on purchase files, which the CLC considers to be higher risk owing to the contribution which clients often need to make from their own or gifted funds. The absence of a matter risk assessment would be taken seriously and action would be taken to manage further compliance.

Along with all parts of our compliance model we are constantly monitoring how systems and process can be improved. For example, in 2019 we revised our inspection process to request policies controls and procedures (PCPs) from practices in advance of an inspection rather than review the documentation on the day of the inspection. The change in process provides the inspector with an opportunity to complete an in-depth review of the PCPs prior to the inspection, identify areas of weakness or non-compliance and test PCPs during the inspection as part of the file review process. Reviewing PCPs ahead of time has the added benefit of allowing inspectors more time to undertake files reviews whilst onsite.

During the inspection the inspector will interview key members of staff, usually owners, directors and MLROs to discuss the PCPs and ask a series of AML based questions which have been developed in accordance with our Anti-Money Laundering & Combating Terrorist Financing Code and the MLRs.

To support this work, in October 2021 the CLC also developed a template matter risk assessment (which is available in the AML toolkit) and we are aware that practices have started to use this as a template for their own risk assessments. The LSAG guidance on matter/client risk assessments was taken into account in the development of this document. We also continue to closely monitor new CLC practices to ensure that their risk assessments are fit for purpose from the outset.

As an example of our model, if the CLC is informed that a practice undertakes matter risk assessments prior to an inspection, the CLC will review AML policies and then will review files to establish whether this is being carried out in practice. We take a similar approach when assessing whether practices have complied with certain actions following inspection reports (which produce a list of required actions based on the inspection findings) and during this period commenced the process of taking disciplinary action against a practice who failed to implement required actions.

We also ensure that inspection actions are followed up in a proportionate manner and, where necessary (for example in a high risk matter), seek to ensure we have underlying evidence of actions being complied with rather than accepting general assertions.

¹⁵ The CLC's current approach is that practices should receive a three week notice of a routine inspection.



ANNEX B

CLC AML Analysis: Sources of Information, Evidence and Data.

Internal data sources

1. Assessments (including desk based and onsite assessments)
2. Questionnaires
3. Thematic/project work
4. Annual returns
5. Complaints
6. Report of a potential AML breach
7. Breach Reporting / Whistleblowing
8. Enquiries
9. Complaints

External data sources

10. FATF guidance
11. LSAG / CCAB guidance
12. National Risk Assessment
13. AML Forums
14. FIN-NET
15. SIS
16. SARS
17. CASCADE
18. Lenders and Panel managers
19. Professional Forums
20. HMG Depts / Other Regulators
21. Insurers & Brokers / Other Market Contacts
22. Media / Social Media
23. The CLC's (Independent & External) Adjudication Panel



ANNEX C

Anti-Money Laundering Guidance

1. AML/CTF Example Procedure¹⁶

IMPORTANT It is essential that the business and its employees comply with the letter and spirit of these procedures since failure to do so may amount to a criminal offence for which it is possible to be sentenced to a term of imprisonment.

Procedures

1. You must not act or continue to act for a client until all requirements for Customer Due Diligence (CDD) or Enhanced Customer Due Diligence (EDD) have been met. If these cannot be met, you must:
 0. not establish a new business relationship; or
 1. terminate any existing business relationship.

You must then consider whether to make an internal report to the Nominated Officer.

2. The purpose of CDD and EDD is to help you decide whether your clients are the persons they say they are and that you can:
 0. know with some certainty whether your clients are acting on behalf of another (called a beneficial owner)
 1. establish there is nothing to prevent you providing the service requested
 2. assess whether the purpose of the instruction is consistent with the lifestyle and economic means of your clients
 3. establish there are no obvious elements which suggest that any transaction is unusual or overly complex in the context of those instructions.
3. Whenever instructed by any client you must obtain evidence as early as possible that
 0. the client is the person he or she claims to be, for example, by a current signed passport or current UK photo driving licence or by using an electronic ID system; and
 1. a person of that name lives at the address given, for example, by a utility bill less than 3 months old or mortgage statement;
4. Further examples of acceptable ID evidence are set out in the Acting for Lenders and Mortgage Fraud Code and Guidance. Photocopies should always be certified as being true copies of the original and signed and dated by the person making the copies.
5. You should find out whether there is a beneficial owner in which case you must be satisfied who that person is. A beneficial owner is the person who ultimately owns and controls the client on whose behalf a transaction is being conducted. There may be more than one. If the client is a Company you must identify who owns 25% or more of the structure and who exercises effective management and control.

¹⁶ Source: CLC Handbook



6. If your client is a non-natural person you must take reasonable measures to understand the person's ownership and control structure.
7. If you discover any discrepancy between the information you collect about a non-natural client and information collected from a relevant register, you must report the discrepancy to Companies House as soon as is reasonably possible.
8. EDD checks must be made in any situation which by its nature can present a higher risk of money laundering or terrorist financing. Under the Money Laundering Regulations 2017, EDD is no longer mandatory if you do not see your client although should be considered as one of the risk factors.
9. You must apply EDD when any of the following apply: the transaction is complex; the transaction is unusually large; there is an unusual pattern of transactions or the transaction or transactions have no apparent economic or legal purpose.
10. You must apply EDD and ongoing monitoring when the client or counterparty is established in a high risk third country.
11. Politically Exposed Persons (PEPs), which include local PEPs, are deemed to be higher risk. The approval by senior management is required for establishing or continuing the business relationship with a PEP, a family member or a known close associate of a PEP.
12. In addition to the usual steps taken to verify identity for CDD, you should obtain at least one additional document of identity or verify identity electronically through [state specific source the business uses].



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