

Title: Anti Money Laundering  
Supervision Arrangements

Version: 1

## CLC POLICY

# ANTI MONEY LAUNDERING SUPERVISION ARRANGEMENTS

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Effective Date:	September 2023
Review Date:	September 2024
Review record	Reviewed May 2024

## Introduction

On 26 June 2017 new anti-money laundering legislation came into effect (The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017). The CLC is one of the professional bodies that has been appointed as a supervisory authority for the relevant persons and practices regulated by the CLC. By virtue of its appointment as a supervisory authority, the CLC is required to:

- 1) Provide effective supervision of its regulated community;
- 2) Provide information and guidance to the regulated community;
- 3) Ensure its staff are properly trained and have the required qualifications, integrity and professional skill;
- 4) Take enforcement action when members of the regulated community do not comply with the regulations;
- 5) Ensure that there is effective oversight, governance and record keeping in relation to the AML supervisory activities;
- 6) Cooperate with other supervisory authorities, government, and law enforcement bodies;
- 7) Report and provide regulatory information related to AML activities to HM treasury and OPBAS.

This policy sets out the key governance arrangements, our approach to supervision and the procedures to be followed in executing our responsibilities under the Act.

## Regulatory Independence

The CLC, which was created by virtue of the promulgation of the Administration of Justice Act 1985 is a pure regulator. What this means is that the CLC is entirely independent of any representative bodies and that representative bodies do not hold positions on any of its governance bodies.

## Governance arrangements

The CLC is governed by a Council who are responsible for oversight of all activities undertaken by the organisation. It is imperative that the Council is kept informed of the activities undertaken by the organisation and the results of those activities. Regular and substantive reporting is key to keeping the Council informed and enabling them to make decisions relating to the execution of the mandated functions.

Ownership of and accountability for the CLC's performance and meeting the regulatory objectives sits with the Council. The Council is assisted in this by the Audit and Risk Committee

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(ARC). The Council of the CLC has a non-lawyer majority and non-lawyer chair with three lawyer members providing insight from the regulated profession. The ARC also has one independent, external member who is recruited for their expertise in finance and management.

The ARC meets quarterly to review risk and the CLC's progress and to report to Council. The ARC meets first, providing a report and recommendations to the Council.

Key tools of the ARC are:

- Review of the Principal Risk Register (with the advice of the Senior Management Team (SMT))
- Review of a quarterly Governance Statement and of Statements of Internal Control from the Chief executive and other SMT members
- Commissioning and reviewing an annual programme of independent internal audits
- Reviewing the organisation's probity policies annually
- Reviewing reports on the CLC's operations
- Reviewing reports on the CLC's finances
- Reporting on all the above to the Council for approval at its quarterly meetings

These programs of managing risk, reporting progress and internal audit provide a rigorous framework for holding the executive team to account.

The CLC's Governance Framework is subject to periodic review against prevailing best practice, most notably the UK Financial Reporting Code. The manual is reviewed each time there is a revision to the FRC. Key policies, for example anti-corruption, are reviewed annually by the ARC and any changes are approved by the Council.

The terms of reference of each of the Committees are reviewed annually with any amendment subject to the approval of the full Council.

Attendance levels of the non-executive members of the CLC's governance boards are monitored throughout the year and reported in our published Annual Financial Statements. Attendance is also reviewed in individual annual appraisals of the non-executives by the Chair of the Council.

There are also regular reviews of effectiveness of the Council and each committee.

The Council of the CLC sets the strategy for the CLC and monitors progress against the annual business plans that are designed to deliver the strategy. The annual business plan is approved by the Council alongside the annual budget. Each formal quarterly meeting of the Council receives a detailed report of progress against the business plan. This includes considering

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whether to approve any changes to the business plan that may become necessary for operational reasons, or because new priorities have emerged.

The annual programme of internal audits is carried out by an independent audit firm that reports directly to the ARC and Council. Each year's programme includes a follow-up audit of progress on any recommendations made in audits in the previous year. Regular audits of the monitoring/AML audit are included in the audit plan. A Specific AML audit will be prioritised in 2024.

**Board effectiveness**

The Council and Committees complete an annual effectiveness review led by the chairs in each case. An independent expert, reviews the effectiveness of the Council Chair, including through 360-degree feedback. A review of the chair of the Adjudication Panel is also undertaken.

Register of Interests covering the non-executive team and the Senior Management Team is maintained and published online.

In addition to the formal meetings, the Council holds informal workshop sessions at least four times each year. These allow the non-executive and executive teams to explore complex or novel issues freely and in some depth. The work as these meetings steers the formal policy development process and helps to define what further consideration or evidence Council members wish to see in Council papers before being asked to make formal decisions.

There are regular meetings between SMT together and separately with the Chair of the Council and less frequently with Council members on specific matters. Working groups of Council and SMT members on specific subjects are established from time to time to report back to Council to inform decisions.

All SMT and any other relevant CLC staff attend Council meetings and workshops.

The Chief Executive provides weekly email updates to Council on that week's activity at the CLC, providing briefing between Council meetings on developing issues, ensuring insight into the day-to-day business of the CLC and providing weekly horizon-scanning of the property market and legal sector.

**Specific AML governance arrangements**

- 1) Quarterly AML statistics and developments reported to Council.
- 2) Key tasks included on the business plan and tracked.
- 3) Activities and news incorporated into the weekly CEO council updates.
- 4) HM treasury and OPBAS reports circulated to Council.
- 5) Council workshops on AML when required to develop policy

## Delegation

While the Council has oversight of the strategic direction, business plans and activities of the organisation the Chief Executive and Senior Management Team (SMT) are responsible of the execution of the business plan and implementation of the necessary resources, processes and control measures to ensure objectives are achieved in a timely, efficient and cost-effective Manner. The SMT retain responsibility for reporting to the Council.

The responsibility for the delivery of the AML plan has been delegated to the Deputy Director of AML and Sanctions. This individual is the Single Point of Contact (SPOC) and money laundering reporting officer (MLRO) for the organisation. Multiple layers of cover for this individual have been put in place, The director of Finance and Operations is the deputy MLRO and SPOC and a designated RSM deputises for the Deputy Director of AML and sanctions.

The CLC operates a very flat structure. This means that there is frequent interaction between the team responsible for the implementation of the AML plan and the SMT, particularly the Director of Finance & Operations.

There is a clear line of escalation through the Director of Finance and Operations to the SMT and Council. Because of this flat structure, frequent communication and quality control interventions the senior management team are kept informed of issues and trends that are identified.

## Risk based approach

The CLC takes a risk-based approach to AML supervision of its regulated community. The assumptions used in the risk-based approach are continuously assessed and are updated when appropriate.

There are two key elements to assessing risk in the regulated community:

- 1) The CLC risk assessment of its regulated community (The CLC sector risk assessment)
- 2) The practice risk register

The sector risk assessment is reviewed regularly (at least annually and as required on identification of any material changes), taking into account new information from government, such as the National Risk Assessment (Last issued in 2020), law enforcement, sector guidance and alerts, Legal Sector Affinity Group guidance and our regulatory

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supervision regime. The next review is scheduled to take place in July 2024. The risk assessment is used as an input into the CLCs risk assessment of strategic risks to its regulatory objectives.

The risk register records a risk profile of each CLC regulated practice and sole practitioner. The register covers key risks such as: the geographical location of a practice's clients, the percentage of overseas clients, the percentage of remote clients, method of client verification and more specific risk areas such as whether the practice is obtaining adequate source of funds evidence and whether it has an adequate practice wide risk assessment.

Levels of risk for each regulated entity are determined by multiple and specific criteria, each of which is attributed a score. An overall risk score of high, medium or low for each entity is then calculated based on the total score from all criteria. The development of the risk areas is based on:

- the CLC's Red Flag Indicators,
- Legal Sector Affinity Group Guidance,
- the Money Laundering Regulations (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 and remote/desk-based reviews but can also be informed through other sources such as intelligence received, complaints and disciplinary investigations. The risk ratings feed into the monitoring team and influence the planning of inspections and other monitoring procedures.

The collection of data and trends is fed back into our AML approach. Trends may lead to alerts or guidance to the regulated community. Trends identified may also result in changes to the inspection approach and actions taken.

**Supervision**

The CLC's monitoring programme ensures that a significant percentage (20% – 30%) of our regulated community is inspected each year. We also maintain close relationships with the practices as well which we believe encourages them to self-report matters. It also means that we can move swiftly to amend codes or guidance for our firms targeted to the work they do. We find increasingly that insurers, lenders as well as consumers of legal services also find that

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a specialist approach fits better with their own risk strategies and provides significant mitigations to the risks.

The CLC uses a wide range of tools to supervise and assess compliance to the AML regulations and the CLC code by the regulated community. The tools used are summarised below:

New practice assessment (pre award of licensing):	All Practices that apply for a License have their policies and procedures reviewed by a Regulatory Supervision Manager (including AML policies) before a license is granted. Any deficiencies in these policies need to be addressed before a license is issued.
First inspections:	Every CLC practice receives a first inspection on or around one year after they come under CLC regulation. This occurs irrespective of the risk profile of the practice or any other features such as size or client base. This ensures that the CLC obtains an early conclusion on whether the practice is acting in compliance with the AML code. The CLC is of the view that early intervention can prevent more serious issues occurring in the future and is a critical component of our assisted compliance model.
Inspections:	The CLC prioritises high risk practices for inspections when planning for the year's inspection programme. Each Regulatory Supervision Manager is responsible for a portfolio of practices and produces a list of practices to be inspected. This is based not only on the risk register but also on factors such as intelligence received, referrals from other regulators, the time that has passed since the last inspection and also an analysis of the previous inspection report to identify any AML patterns or themes emerging. At the inspection planning meeting all the proposed practices are discussed and a decision reached as to whether and how the practice will be inspected.
Follow-up inspection work	The CLC places great emphasis on working with practices following inspections to ensure that actions are properly implemented and risk is mitigated. Inspection reports usually contain actions with a series of deadlines for them to be implemented. These actions are followed up on by the assigned Regulatory Supervision Manager (RSM) and issues which present a high degree of risk (such as in AML – lack of

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	<p>source of funds checks) are followed up until we are satisfied that the report can be signed off. This usually involves obtaining detailed evidence of compliance from the practice such as revised AML policies and procedures and proof of implementation. The CLC ensures that the actions for all risk categories of practices (low, medium, high) are followed up on and in our view this mitigates the risks substantially across our entire regulated community.</p>
Targeted desktop reviews	<p>The CLC's preference for inspections is to conduct them onsite as we feel this is the most effective mode of inspection. Desktop reviews are reserved for following up on specific issues identified (or intelligence received) and typically are conducted where non-compliant findings have been made in high-risk areas such as AML and accounts which need to be taken further. For example, where a practice has been found to have wide-ranging and systematic deficiencies in AML it may be thought necessary to arrange for this kind of review to focus exclusively on these issues and to test whether the actions have been properly implemented and embedded into the practice.</p>
Investigations	<p>The CLC can undertake investigations into any CLC practice or individual should we receive information about that practice which warrants an investigation. We take AML intelligence and relevant information seriously and this has at times led to either disciplinary action or referrals to other regulators. These investigations are conducted into practices irrespective of risk profile.</p>
Financial reviews	<p>The CLC also regularly reviews a number of financial documents which can reveal significant AML issues. CLC practices are obliged to provide accountants reports on an annual basis and we conduct reconciliation review exercises at various points in the year irrespective of risk ratings. During the reviews we identify issues which could have an AML element such as misuse of the client account or unexplained payments/transfers and follow these up with the practices.</p>
Annual Regulatory Return	<p>This annual survey of the CLC's registered population contains a significant section on AML, covering the most</p>



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	consistent and serious issues that we have identified. We analyse the data from the Return and make decisions as to whether further follow-up work is required such as desktop reviews or investigations.
Thematic reviews	Targeted thematic reviews can be undertaken when we need to collect data on specific areas or if we identify a pervasive risk. A recent example is a thematic review into Trust and Company Service Providers (TSCPs).

### **Enforcement**

The CLC's approach to its regulatory mandate is unique – in that we use an assisted or managed compliance model. The responsibility is always on the regulated professional to ensure that they are working in the best interests of their clients. The CLC aims to have a regulatory framework that enables practices to deliver the best outcomes for those clients. It is an agile approach which takes a forward look to how regulation needs to develop and not only keep pace with but be in front of change.

We also aim, through assisted compliance, to prevent potential harm to consumers by identifying breaches of the rules and rectifying any problem before there is any consumer detriment.

The CLC will always try to work with regulated individuals and practices to ensure that they are compliant with the CLC principles, codes and associated laws. CLC practices, through this approach, recognise the benefit of frankness and candour – averting more severe action where there is a true wish to remediate and the agreement to a risk based, time bound plan to do so.

If there is persistent non-compliance or actual consumer harm occurs, then we move to our disciplinary tools to secure rapid compliance or to take steps to remove the risk to consumers by intervening in a practice or suspending or removing an individual licence. Whether we become aware of compliance failings through our monitoring of a practice or individual self-reporting our first objective, wherever possible, is to agree a plan to achieve a swift return to compliance. This is an approach to regulation that might be called 'high touch' because of the close oversight of practices. However, it is both proportionate, risk-based and targeted while ensuring that practices are meeting the CLC's expectations effectively.

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If those we regulate are not open and cooperative with us, we will not be able to help them avoid consumer harm, and they will be much more likely to find themselves facing disciplinary action.

The CLC takes a proportionate appropriate to determining remedies and will start consideration from the lowest level sanction as is regulatory best practice. The CLC has a wide range of mechanisms both formal and informal to create the platform for adherence to its designated standards, expressed through rules and guidance.

The first step in most regulatory matters – except where immediate action is required, in response to actual harm having already occurred or there being an immediate threat to clients – is what we call ‘assisted compliance’. This means the CLC works with the practice to bring it back into line within a reasonable timeframe.

That timeframe is limited and requires a firm commitment by practices to put things right to a deadline agreed with their Regulatory Supervision Manager. Years of experience of the assisted compliance approach means we are now making more use of the other powers we have, such as warning letters and Enforcement Determination Decisions, to speed up the process where firms are not moving quickly enough. It is a more calibrated approach that delivers the consumer protection more quickly and proportionately than an immediate referral to the Adjudication Panel could.

The enforcement tools available to the CLC fall into three broad categories:

1. Managed compliance
2. Informal sanctions
3. Formal sanctions

Several factors go into the determination of which category the matter will fall into which will in turn determine the sanction that can be applied.

**Managed compliance**

This may consist of an action plan or directions which are designed to remedy breaches and bring an individual or practice back into compliance with the CLC’s codes. To get to the action plan there will have been a period of discussion with the practice’s dedicated regulatory supervision manager (RSM). Critically the action plan needs to include specific actions and an agreed timeline to deliver it. The RSM will be in regular contact with the practice to check progress and a follow up visit will track that it is on course. In future years the monitoring

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regime will pick up whether compliance has been consistently applied. The action plan may also include matters such as attendance at appropriate webinars.

### Informal sanctions

These are sanctions which the CLC has developed in response to lower-level breaches and which improve the breadth of the remedies available to the CLC within our regulatory powers. Informal sanctions are only likely to be appropriate if the matter at issue is:

- An Isolated incident
- First incident of type
- There is a technical breach but no risk of harm to consumers
- Low risk of repetition
- Self-reported
- Action has already been taken to remedy

The specific sanctions available are summarised in the table below:

Issuing a Notice Letter	Breaches of the principles, codes and laws may not be sufficiently serious to warrant formal sanctions but it is important that they are accurately recorded on the practice record. Notice letters are used when the CLC wishes to formally make a practice or individual aware that their action(s) or behaviour is not acceptable. The existence of a notice letter is also an indicator for formal sanction for a further breach.
Issuing a Informal Reprimand	A Reprimand is a formal letter to a practice that informs them of the serious nature of a breach and puts them on further notice of action if it reoccurs. A reprimand is a public warning letter that is published on the CLC website and linked to the practices record.
Agreeing an undertaking	An undertaking is a formal and legally enforceable pledge or promise to do something or to refrain from so doing. In certain circumstances, the CLC and one or more individuals may agree an undertaking to take or cease to take particular action. Depending on the nature of the undertaking it may be published.

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There are however times when further actions may become necessary. The following threshold guidance outlines examples of circumstances/indicators where a case should or should not be referred for disciplinary consideration. The examples below are not exhaustive and there may be additional factors (for example, the size and nature of the practice) to consider in parallel with the AML Enforcement Policy.

Indicators which suggest a case should not be referred for disciplinary consideration	Indicators which suggest a case should be referred for disciplinary consideration
Less serious or minor AML breaches (eg minor issues with the AML policy and/or inadequate AML training for one or member of staff who is not the MLRO).	If the AML issue is a sufficiently serious breach by itself (such as complete lack of or completely inadequate: (a) AML training, (b) source of funds/source of wealth checks, (c) AML policy/procedure, (d) ID checks or (e) misuse of the client account with a link to AML).
If the AML breach or breaches do not undermine public confidence in the profession or the CLC as a regulator.	If the breach or breaches will undermine public confidence in the profession and the CLC as a regulator.
The AML issues identified are not widespread or do not indicate systemic problems and/or a poor AML culture.	If there are widespread AML failings in several areas indicating systemic problems and/or a poor AML culture.
At the sign off stage – the practice has fully cooperated with the CLC and has remedied the AML concerns in line with the required timeframes.	At the sign off stage - If the steps taken following inspection (managed compliance) have not achieved the desired outcome.
If a source of funds concern – that there has been no “triggering event” such as client money being received into the client account before SOF was obtained or that the matter has exchanged.	If a source of funds concern – that there has been a “triggering event” such as client money having already been received or that the matter has exchanged.
The non-compliance of the practice or individual was due to circumstances outside of their control.	If the non-compliance of the practice or individual was intentional or occurred despite being aware of their AML obligations.
If an individual – there are wider structural AML issues at the practice which means that action against an individual employee may not be appropriate.	If an individual – there is no evidence of wider structural AML issues and the failings appear to be confined to that individual.

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Indicators which suggest a case should not be referred for disciplinary consideration	Indicators which suggest a case should be referred for disciplinary consideration
The AML issues relate to files that were reviewed – that the transactions are not high risk (either in terms of transactions, clients or services) or are not systemic or repeated issues.	If the issues relate to what are considered to be high risk transactions or high-risk clients (for example if the transaction is complex or unusually large or relates to a client “established in” a high risk third country) <sup>1</sup> .
The issues relate to services which are at a lower risk of being exploited by money launderers at the time of the transaction.	The issues relate to services which are considered to be at a higher risk of being exploited by money launderers at the time the transaction occurred <sup>2</sup> .
If there are low level failings which are isolated in nature and do not reflect a pattern.	If there are persistent low-level failings in one area (eg source of funds issues on a number of low or medium risk cases).
If the AML issues relate to files that were reviewed – that the transactions are not high risk or are not systemic or repeated issues.	If the CLC knows or suspects that the practice or an individual is involved in money laundering.
Managed compliance and/or a notice letter and/or a follow-up review is likely to be sufficient to achieve the desired outcome.	If there is evidence of non-cooperation with the CLC such as failing to implement actions from previous reports or in the practice’s current responses.
There haven’t been any similar breaches in the past at previous inspections – these are isolated concerns which have not occurred over a long period of time.	If there is evidence of previous non-compliance with AML that is the same or similar to the current issues <sup>3</sup> ;
Significant time has elapsed since the transaction occurred (typically 5 years and over) which will mean that information and evidence will be of lesser quality and that the issues do not accurately reflect current AML processes and procedures.	If the issues identified are relatively recent, indicating that they represent current AML processes at the practice.
No related client account breaches such as unexplained payments or using the client account as a banking facility	Related client account breaches which are serious – for example using the client account as a banking facility.

<sup>1</sup> As classified either (a) under the practice’s own client/matter risk assessments, (b) in the view of the RSM/RSO reviewing the matter in line with the CLC’s sectoral risk assessment.

<sup>2</sup> As defined: (c) under the National Risk Assessment or (d) the CLC’s sectoral risk assessment.

<sup>3</sup> The previous inspection report (if there is one) at the least must be checked.

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The purpose of taking further action is to:

- Protect the consumer
- To help foster and build trust by the public in conveyancing and probate practices by ensuring wrongdoing is acted on in a transparent, robust and proportionate way
- Ensure that high professional standards are met
- To maintain the quality of service provided to the public
- Deter others from similar behaviour
- Prevent recurrence of the behaviour

**Formal sanctions**

These sanctions must be imposed either by the Adjudication Panel under the Administration of Justice Act 1985 (AJA) or the Courts and Legal Services Act 1990 (CLSA) or by the CLC under the provisions of the Legal Services Act 2007 (LSA). There are two separate regimes – one for Alternative Business Structures the other for Recognised Bodies. All such sanctions are publicised on the CLC's website.

The CLC regulates:

1. Recognised Bodies and Licensed Conveyancers (LCs) under the Administration of Justice Act 1985 (AJA) and
2. Licensed Bodies (Alternative Business Structures (ABSs)) and non-LC role holders (employees/managers) within ABSs under the Legal Services Act 2007 (LSA).

The process that is followed for formal sanctions is outlined below:

1. Identification of non-compliance and initial investigations – identification may occur via sources including a self-report, practice monitoring inspection, a complaint received from the public or via intelligence received from another regulatory body or intelligence sharing organisation. The CLC via the Regulatory Supervision Managers (RSMs) or other intelligence gathering, would obtain evidence and make early enquiries with the practice about the alleged non-compliance. Instances of qualifying non-performance are added to the disciplinary tracker for review.
2. Decision to pursue – the CLC Senior Management Team (SMT) and RSMs hold periodic meetings to discuss ongoing and any new potential disciplinary matters. At these meetings, we discuss the conduct and evidence relating to potential disciplinary

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matters and a decision is made as to whether the non-compliance can/should be managed informally or if not, to proceed with a formal disciplinary investigation.

3. Disciplinary referral document – a disciplinary referral is drafted when cases are to be referred to the Adjudication Panel summarising the points discussed and agreed by the RSM and SMT. This document summarises the issues raised, breaches to codes and legislation, aggravating and mitigating factors, a conclusion and proposed disciplinary outcome.
4. Formal notification of investigation – once a decision in favour of pursuing a formal disciplinary investigation has been made, the CLC (RSM) writes to the respondent/s to put them on notice that a disciplinary investigation into certain areas of our codes has commenced.
5. Investigation – the RSM will commence collating the bundle of evidence and formulating draft allegations. If further information/documentation is required, it will be requested by the practice during this step.
6. Recognised bodies would then be referred to the Adjudication panel for a case to answer decision. If this is successful, the matter would be listed for a hearing. Licensed bodies are issued with a warning notice, if they accept the notice an enforcement determination notice is issued. If the practice doesn't accept the notice it is referred to the adjudication panel for review and determination.

**Sanctions**

There are a range of formal sanctions including:

- termination of licence
- revocation of licence
- permanent disqualification
- disqualification for a period
- conditions on licence which restrict the work that can be carried out or the way the work is carried out
- suspension of licence
- formal reprimand
- financial sanction.

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The CLC collects intelligence from the public, clients of practices, other regulatory bodies and law enforcement agencies. Any intelligence received by the CLC is logged on the intelligence log. All intelligence is assessed and may result in further investigations into a practice or individual.

Any AML related intelligence relating to an individual or practice not regulated by the CLC is referred to the deputy director of AML and sanctions. This information is discussed within the supervision team and if deemed appropriate will be shared.

The CLC has an external whistle blowing policy which is published on the CLC website. This policy provides confidential routes for individuals to make disclosures. Any disclosures relating to AML will be referred to the Deputy Director of AML and Sanctions.

The CLC has Memorandums of Understanding with the following organisations:

- The Solicitors Regulation Authority
- The Financial Conduct Authority
- The Legal Ombudsman
- HM Revenue and Customs
- The Law Society of Scotland
- The Regulators' forum (which includes a number of regulators including the Bar Standards Board, Cilex Regulation, Institute of Chartered Accountants in England and Wales and others)

Membership – The CLC is a member and active participant in the:

- Legal Sector Affinity Group
- Legal Regulators AML Forum
- AML Supervisors Forum
- Legal Sector Intelligence Sharing Expert Working Group
- Legal-Cross Sector Risk Forum
- Cascade

working in collaboration with other supervisors, HMRC and law enforcement:

- The CLC shares information frequently with other regulators such as the SRA (including making referrals where AML concerns have been identified).
- We cooperate and share information with HMT / the supervisory authorities.



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- We share information with OPBAS at our regularly scheduled bilaterals / inspections.
- The CLC responds to policy consultations and annual returns and taking part in workshops/roundtables.
- The CLC is a member of FIN-NET and receives regulatory referrals from UKFIU/NCA and the Legal Ombudsman (secure system – Egress is used)
- HMLR/DHLUC.

The CLC maintains a portal specifically for AML related topics and guides that the regulated community can access and use.

THE CLC also produces monthly newsletters which signpost and highlight AML developments as well as disciplinary outcomes (including AML).

**Suspicious Activity Reporting (SARs)**

SARs are a critical component of ensuring that money laundering is being tackled appropriately and CLC practices make a number of such SARs to the National Crime Agency (NCA) every year. In the reporting year 2022-2023 CLC practices submitted 94 SARs to the NCA.

The CLC itself also has an important role to play in ensuring that we escalate concerns appropriately and SARs are made to the NCA where we have knowledge or suspicion of money laundering or terrorist financing.

**Monitoring of SARs:** The CLC reviews SARs submitted by practices within the last 12 months as part of any inspection or AML desktop AML review. At least one SAR will be selected for review<sup>4</sup>. A standard set of questions has been developed which can be found in the inspection form and the relevant member of the monitoring team will fill this in.

The outcome of the SAR review will be carefully considered and feedback is provided to the practice where necessary within the inspection report or review report. For example, if the reviewer notes that internal policy was not followed this will be fed back to the practice and corrective action expected. The number of SARs are also recorded on the risk register and form part of the assessment.

**Other monitoring:** the Annual Regulatory Return (ARR) has been expanded in recent years and now every practice is asked routinely how many SARs have been submitted in the last

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<sup>4</sup> More will be reviewed if the practice concerned is a larger practice where the inspection takes place over a number of days and the turnover is in excess of £5 million.

year as well as how many Defence Against Money Laundering (DAML) SARs have been submitted. The CLC will also be conducting a SAR thematic review in 2024/2025.

**Internal SARs and reporting to the NCA:** If an employee, contractor, agency worker, Council member, Independent member or Adjudication Panel member or licence holder of the CLC knows or suspects money laundering has taken place in a CLC regulated entity, they must report it to the Money Laundering Reporting Officer (MLRO) or Deputy MLRO without delay. The CLC has an internal suspicion form which must be used when reporting to the MLRO or DMLRO.

SAR checks are also built into the quality assurance process for inspection reports. Whenever the quality reviewer (which is currently one of the deputy directors) quality checks a report they must always consider whether a SAR should be made.

At the CLC the MLRO is the Deputy Director of AML and Sanctions and the Deputy MLRO is the Director of Finance and Operations. The MLRO or the Deputy MLRO will investigate, taking into account all available evidence. They will complete and file a Suspicious Activity Report (SAR) if appropriate. If it is decided that a SAR is not needed, reasons are to be provided.

The MLRO or Deputy MLRO must keep detailed records of any report and subsequent investigation. The CLC has a SAR log which is maintained and records all reports made to the NCA as well as instances where reports have not been made.

### **Quality Assurance**

The CLC understands the importance of ensuring our actions are proportionate, consistent and fair. This is facilitated by a process of review and signoff which ensures all actions are well tested and that all relevant staff have had an opportunity to assess and contribute. The key elements of the quality assurance process are outlined below:

#### **a) Annual Inspection planning:**

At the beginning of the year the monitoring team<sup>5</sup> will meet to finalise which practices should be inspected under the planned visit format and in what format (e.g. remotely or onsite). Each member of the monitoring team with responsibility for the supervision of practices will review their portfolio and produce a list for review at the inspection planning meeting. From an AML perspective the review takes into account:

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<sup>5</sup> Including the Deputy Director of AML and Sanctions and the Deputy Director of Regulatory Standards – both of whom retain a caseload of practices.

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- The AML Risk Register;
- Previous AML compliance;
- The time since last inspection;
- Any AML intelligence or information received;
- Any AML investigations or disciplinary action;
- Any planned AML work (e.g. follow up from an inspection the previous year).

**First stage quality check:** The planning meeting will discuss each of the practices which are put forward for inspection, including those with an AML aspect. The Regulatory Supervision Manager (RSM)/Regulatory Supervision Officer (RSO) will present the case at the meeting and the information and proposal will be discussed before a final decision as to whether (a) the practice will be inspected, (b) if so what mode of inspection and (c) with any particular areas of focus such as AML or accounts.

**Second stage quality check:** The list of inspections, once finalised, will record the reason for being included<sup>6</sup> and then be provided to the Director of Finance and Operations who will discuss the list with the Deputy Director of Regulatory Standards and the Deputy Director of AML and Sanctions. Any alterations to the list will be agreed and a final version will be produced.

**Third stage quality check:** The list of inspections is provided to the SMT who will review the rationale for the inspections as well as any lessons learned from the previous inspection cycle, emerging AML risks and any compliance work planned such as new guidance.

**Fourth stage quality check:** An anonymised report on the inspection plan will be provided to the CLC Council and is reported back via the KPI reporting or by exception.

**Continuous review:** The CLC will also keep the list under review should concerns be received during the year which suggest that an inspection is required<sup>7</sup>. These concerns are discussed during team meetings and then at one of the regular meetings between the Deputy Directors and the Director of Finance and Operations. Additional monitoring can then be put in place including off plan inspections, thematic reviews etc which would be quality checked and reported through the mechanisms above.

**b) AML plan for the current year:**

**First stage quality check:** in Q4 of the calendar year the Deputy Director of AML and Sanctions, Policy Manager and the Director of Finance and Operations meet and review the previous year's AML plan. This review assesses whether all the objectives of the previous year's plan

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<sup>6</sup> For example, if there have been concerns raised about their AML work or in another area of the CLC code.

<sup>7</sup> For example, if AML intelligence is received.

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have been achieved and whether any elements are to be carried over to the next year<sup>8</sup>. A new AML plan for the coming year is devised at this meeting which will cover these core elements:

- Any thematic project work to be carried out that year;
- The production and delivery of the AML report for His Majesty's Treasury (HMT);
- The production and publication of the Regulation 46A report which is assessed by OPBAS;
- The development of any guidance for CLC practices in key AML areas;
- The refresh of time sensitive AML processes such as the sector wide risk assessment<sup>9</sup>;
- A review of the AML toolkit to ensure it is up to date and relevant;
- A review of any legislative developments which require further AML work;
- Feedback from any external bodies (Such as OPBAS).

**Second stage quality check:** The AML plan is then subjected to a quality assurance review by the Senior Management team who will scrutinise the plan in detail and then convene a meeting to discuss the plan in person. Following the meeting the final version of the AML plan is produced and circulated to SMT.

**Third stage quality check:** The AML plan, once finalised, is incorporated into the CLC's business plan for the year. The business plan itself is discussed in a further SMT meeting and then will then be subjected to a quality assurance review by the CLC Council at their next formal meeting.

**Continuous review:** The AML plan is subjected to continuous review throughout the year by the Deputy Director of AML and Sanctions and the Senior Management Team (SMT) to ensure that (a) progress is being made and (b) it reflects any changes (such as AML legislative developments) or any significant external events (such as the pandemic). Meetings are held throughout the year to review the plan<sup>10</sup>.

**c) Managed Compliance – Monitoring inspections:**

The CLC's core monitoring tool is practice inspections<sup>11</sup> which checks compliance with the CLC codes. A report is ultimately produced which provides an assessment on the level of compliance. Once the form of the inspection has been agreed, the inspection is undertaken

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<sup>8</sup> This will include assessment of reporting to Council on the business plan and any comments made on the AML aspects.

<sup>9</sup> The sector wide risk assessment will be reviewed every year in July.

<sup>10</sup> This is then subject to regular reporting through SMT and to the Audit and Risk Committee and Council I- see section (c) below.

<sup>11</sup> This includes onsite and remote or desktop reviews.

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either by an outsourced inspector<sup>12</sup> or by a RSM or RSO. If the inspection is the practice's first inspection, then it will be conducted by the RSM or RSO. For very large practices<sup>13</sup> the CLC will send a team of internal staff including the responsible monitoring officer and at least one of the Deputy Directors. In some case cases a director may also attend.

**d) Inspection report review prior to issuing:**

**First stage quality check:** The CLC utilises a standard inspection form and inspection report which must be completed on every inspection whether the inspector is an outsourced one or conducted by an internal member of staff. The AML sections of the inspection form are based upon the CLC's AML & CTF Code and the 2017 AML regulations and results in a consistent check of practice's compliance in this area. The form requires a standard set of AML areas to be filled in<sup>14</sup> and also has a section for file reviews which includes a review of matter-based AML provisions.

**Second stage quality check:** If the inspection is an outsourced one then the report will first be provided to the RSM/RSO responsible for that practice. They will undertake an initial check of the report which will check the report using a range of criteria including whether the compliance ratings, findings, actions and any recommendations are appropriate.<sup>15</sup> The RSM/RSO will also review whether any further information is required from the practice or the inspector to support the findings. Once the RSM/RSO has finalised their draft of the report it will be provided to the Deputy Directors to conduct a final quality check.

**Third stage quality check:** One of the Deputy Directors will check the final draft version of the inspection report. A consistent approach to the checking of the report is adopted. The guidance supporting this review can be found at Appendix A. A standard email will be sent to the RSM/RSO which will provide feedback and include whether a disciplinary recommendation or a Suspicious Activity Report (SAR) should be made.

**Continuous review:** The CLC is committed to keeping the content of its various reporting documents under review and will make changes where necessary should any new legislation or requirements arise<sup>16</sup>. The CLC also takes into account feedback from inspectors and monitoring team members.

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<sup>12</sup> The CLC has a small panel of outsourced inspectors who have received AML training as well as training on our rules and approach.

<sup>13</sup> Practices with a turnover more than £5 million.

<sup>14</sup> Such as whether the AML policy is compliant or whether appropriate CDD has been conducted.

<sup>15</sup> Whether the findings etc are in line with the CLC codes/AML legislation.

<sup>16</sup> Such as for example introducing the requirement to check whether the sanctions list is being checked by every practice who is having an inspection.

**e) Inspection report closure (sign-off)**

The responsible RSM/RSO works with the practice to implement the actions contained in the inspection report. The report must not be signed off until all the actions have been complied with to the CLC's expectations which includes:

- (i) Checking that the practice has provided appropriate evidence as required by the actions. For example, if changes are required to the practice's AML policy, then the revised AML policy must be obtained from the practice and saved into the relevant folder.
- (ii) Checking that the actions have been responded to in a timeous fashion which is within 2 weeks for AML actions and 4 weeks for other actions. Any instances of non-cooperation should be escalated accordingly.
- (iii) Ensuring that all records of post-inspection correspondence are captured within the relevant folder in the practice folder.
- (iv) Ensuring that the final email to the practice which signs off the inspection formally is stored in the practice folder and is marked as being "signed off".

**First stage Quality check:** The RSM/RSO must create an actions checklist which is based on the actions section of the inspections report. The report can only be signed off once each of the actions has been addressed in the opinion of the RSM/RSO. This checklist must record the practice's progress and be saved to the practice folder.

**Second stage Quality check:** The risk register must also be updated at the sign off stage to reflect the work done by the practice. This is stage 2 of the CLC's risk assessment model (the first stage is done when the report is sent to the practice).

**f) Disciplinary process – decision to take disciplinary action:**

Non-compliance can be identified in a variety of ways including self-reporting, a practice monitoring inspection, intelligence received or through a complaint received from the public. As is noted in the CLC's disciplinary policy, evidence will be obtained by the responsible RSM/RSO and recorded in the practice file.

**First stage quality check:** The monitoring team meets on a weekly basis to discuss ongoing matters and one of the standing items in the agenda are potential disciplinary cases. The RSM/RSO responsible for the practice will present the case to the rest of the team. Following a discussion of the circumstances a decision will be reached as to whether the issue should be referred for disciplinary consideration. If the decision is taken that the case should then a disciplinary referral form is completed to capture the reasons for the referral.

**Second stage quality check:** Formal disciplinary decision meetings, which are attended by the Senior Management Team (SMT), are held frequently throughout the year to discuss

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disciplinary referrals and ongoing cases. If a new case is being put forward by the relevant RSM/RSO then they will present the case at the meeting and a discussion will ensue to consider the appropriate action to be taken. The outcome of the discussion will be recorded and will then be tracked through until the case has been concluded. In a serious matter the disciplinary decision meeting will be scheduled supplementary to the standard schedule.

**Third stage quality check:** The RSM/RSO will then take the case forward from the disciplinary meeting. Irrespective of the outcome, the next stage will be subject to quality checking with more high-risk cases receiving additional checks. For example, if the outcome is a notice letter reminding a practice of its responsibilities, then this will be circulated to the monitoring team for comment. If the matter is to be escalated to either enforcement action or a full disciplinary hearing and the allegations are serious/complex, then the CLC will engage external lawyers to check the allegations and provide their expert input into the case. In the latter type of cases the lawyers will be retained throughout the life cycle of the case all the way to the final hearing.

**Fourth stage quality check:** Any allegations which are drafted under the Administration of Justice Act 1985 (Recognised Bodies) must be presented to the independent Adjudication Panel who will decide whether there is a case to answer. This independent committee scrutinises the evidence and the allegations, as well as the respondent's response to the allegations, and takes a decision as to whether the CLC has a reasonable prospect of success at a final hearing.

**g) Reporting to the CLC Council:**

The CLC reports to a number of independent committees and bodies which consider the CLC's supervisory programme, including current and ongoing AML work. The main body to which the CLC reports is the CLC Council and the specific reporting includes a quarterly AML report which is prepared by the Deputy Director of AML and Sanctions and is delivered by the Chief Executive to Council. The report covers:

1. Updates on the CLCs AML work such as thematic projects or significant disciplinary cases;
2. A breakdown of the current numbers of high risk, medium risk and low risk practices;
3. A breakdown of the current numbers of AML compliant, generally compliant and non-compliant practices;
4. A summary of the main reasons for AML non-compliance identified in that quarter.

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Beyond the quarterly report, the CLC also provides updates on significant AML events during the year<sup>17</sup> which can be seen in the Chief Executive's report to Council<sup>18</sup>. These updates provide a comprehensive outline of the CLC's AML work and is subjected to the scrutiny of the Council.

Any exceptional matters that require reporting out of the governance cycle can be reported by exception by the CEO to the Chair and the Council. Appropriate delegations are in place to ensure that the business of the CLC can continue seamlessly in the event of the absence of any officer. The delegations and business continuity plan are reviewed annually and by exception if required on a risk basis.

The Council also has ownership of the strategic risk register which will, if appropriate, include risks escalated from the operational risk registers. This is reported at least quarterly to Council with any changes to the risk profile or new risks suggested. The Register will be recommended to the Council by the Audit and Risk Committee after their preliminary scrutiny of the register.

**h) Reporting to the Audit and Risk Committee:**

The CLC's Audit and Risk Committee supports the Council's responsibilities in the areas of principal risk, control and governance and associated assurance by providing an opinion on how well the Council and Chief Executive are supported in decision making and in discharging their accountability obligation with particular regard to financial reporting and risk management.

The Terms of Reference of the Audit and Risk Committee include strategic oversight of the CLC's processes for risk, control and governance, which are reviewed and scrutinised at each meeting to provide an opinion on the discharge of functions.

The CLC recognises that its AML function should be subject to regular formal audit and includes an audit of the CLC's supervisory and decision making to the Internal Audit plan from time to time. The recommendations for the plan are placed before the Audit and Risk Committee annually to inform the next years internal audit plan. The CLC's internal audit plan is carried out by a third party, currently RSM.

The ARC also has oversight of the Principal Risk Register (PRR) which contains a list of the key risks the CLC faces and is updated regularly with SMT providing suggestions for updates. Some of the risks have a bearing on the AML function and the ARC scrutinises these risks and ensures that appropriate mitigations are in place.

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<sup>17</sup> Such as the HMT report and the Regulation 46 report.

<sup>18</sup> See the 27 July 2023 Chief Executive's report which provides an illustration of the scope and kind of information which is reported to the Council.



**i) External Reporting (HMT and OPBAS):**

Both bodies require the CLC to submit annual AML report. HMT requires a report to be completed every year in or around June or July which answers a number of specific questions around the CLC's AML programme and supervisory work and requires key data relevant to AML to be provided and summarised.

OPBAS assesses the CLC's Regulation 46A reports which are reports that capture a summary of the CLC's current AML programme and provide key information and statistics. The reports provide an overview of the AML monitoring programme, captures risk and compliance data, provide information about inspections and a summary of enforcement in the year as well as key risks/themes identified.

**First stage quality check:** These reports are developed in the first instance by the Deputy Director of AML and Sanctions and the Policy Manager. Regard will be had to prior reports submitted and other key documents such as the National Risk Assessment and the CLC's risk agenda.

**Second stage quality check:** Both reports will be sent to SMT at least a month before they are due to be submitted or published. The reports are rigorously reviewed and tested and ultimately signed off by the SMT. The final version of the Regulation 46A report is published on the CLC website.

**j) The Professional Review Group (PRG):**

This group is comprised of a number of experienced professionals from the conveyancing industry. When required, they meet to consider significant guidance documents which the CLC are proposing to circulate to the regulated community. For example, in 2023 the PRG was consulted on new acting on both sides (ABS) guidance that had significant repercussions for those involved in conveyancing. Notable AML guidance documents are sent to the PRG for review before finalisation. Less significant AML guidance updates will be subject to internal CLC quality assurance.

**k) Legal Services Board (LSB):**

The CLC undergoes regular performance assessments by the LSB. These performance assessments relate to areas which are pertinent to AML such as disciplinary and thematic projects. The CLC's responses are scrutinised by the LSB and feedback provided on any issues that are identified.

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All staff are required to undertake basic AML training regardless of their position. This is done to increase awareness and increase the likelihood of a staff member identifying money laundering issues during their work.

Staff members that have supervision and enforcement roles are required to undertake enhanced AML training and refresher courses periodically. Additionally, staff in these roles are expected to:

- Undertake additional training and seminars relevant to their role and interests.
- Engage in continued education by reading articles, enforcement decisions and other guidance as it arises.
- Share relevant information, articles and decisions with other team members.
- Share AML findings with the team at team meetings
- Seek guidance for novel or new situations at team meetings.

All staff members are expected to maintain a training log detailing all formal and informal training undertaken.

**External Reporting**

The CLC is required to report annually to HM Treasury and OPBAS. The reports are prepared in the format specified by these bodies and is approved by the SMT before being released. Both reports are published on the CLC website annually.

Any other ad hoc reports requested will be drafted by the policy team of deputy director of AML and sanctions and approved by SMT prior to release.

## Appendix A

### Quality Assurance Checking Guidance

#### Whole report:

1. The inspection report is reviewed to ensure consistency and quality control, which includes correcting any errors, mistakes or inaccuracies (by a “quality reviewer”);
2. Each of the compliance conclusions for each section (including AML) will be double checked by the quality reviewer to ensure that they are consistent with the summary table;
3. With respect to AML the quality reviewer will ensure that if the finding is non-compliant then the default overall finding of the report is also non-compliant<sup>19</sup>;
4. The quality reviewer will highlight if they consider any matters to be particularly serious and recommend further action to consider.

#### Findings:

5. Each individual section of the report is reviewed in turn with findings checked to ensure they are factual<sup>20</sup>;
6. Each finding is checked to ensure it links to a corresponding action, so that there are no issues which remain unaddressed;
7. The quality reviewer will ensure that the issues identified in the file reviews have also been addressed in the actions section;

#### Actions:

8. These will be reviewed to see if they are appropriate (for example that the CLC have power to require them, they are achievable, are proportionate to the finding and the size and nature of the practice and require evidence);
9. The timeframes for completion will be reviewed, to ensure they are in accordance with the CLC’s default policy, which is to allow two weeks to remedy AML and other serious findings, and four weeks to remedy all other findings;
10. The individual code breaches cited in the actions will be scrutinised to ensure that they are correct and reference the correct areas of the CLC code(s);
11. Review the recommendations (if any) to ascertain if they are appropriate and have been appropriately categorised.

#### Recommendations:

12. The quality reviewer will review the report and decide whether or not a recommendation for disciplinary referral should be made.

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<sup>19</sup> It is possible to deviate from this default position in circumstances where an overall non-compliance rating would be disproportionate to the otherwise compliant findings reflected in the report, however written reasons for doing so must be recorded on the monitoring folder.

<sup>20</sup> For example, to ensure they do not include unnecessary observations or speculation.

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13. The quality reviewer will also consider whether a Suspicious Activity Report (SAR) will be made.
14. The quality reviewer will also consider whether a follow up review is required. For example if serious AML findings have been made and a follow-up review is considered to be necessary.