



## **AML Enforcement Policy and Procedure**

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

### **What is meant by Enforcement?**

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

Enforcement actions aim to be:

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

### **Scope of Enforcement Powers**

The CLC can take enforcement action against:

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

### **Example Breaches**

The following AML breaches may lead to enforcement proceedings:

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

### **Decision-making considerations**

In determining whether to take enforcement action we will consider some or all of the following:

- the seriousness of the act or omission and the likely or actual risk of money laundering taking place.
- the effect the breach is likely to have on:
  - the reputation of the rest of the profession; and
  - public confidence in those services and the CLC's Regulatory Arrangements.

- the extent to which the act or omission is a one-off occurrence or is part of a series of similar matters or appears to be deliberate or vexatious.
- the period of time over which the act or omission has occurred.
- management competence and willingness to comply with directions from the CLC.
- the adequacy of AML policies, controls, and procedures.
- The CLC’s threshold guidance on AML breaches (within the consolidated AML policy).
- any other relevant information.

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

**Enforcement Tools**

Informal/Regulatory Action Approach – delegated powers of CLC staff

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

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

Enforcement tool	Statutory Authority	Determination made by
Licence/certificate revoked	1985 Act s.26(2)(a)	CLC Adjudication Panel (Recognised Bodies) Senior Management Team (Alternative Business Structures)
	1985 Act s.28 fraud or error	
	2007 Act s.101	
Disqualification from holding a licence/role	1985 Act s.26(2)(b)	CLC Adjudication Panel (Recognised Bodies) Senior Management Team (Alternative Business Structures)
	2007 Act s.99	

Licence/certificate suspended	1985 Act s.24(5)	CLC Adjudication Panel (Recognised Bodies) Senior Management Team (Alternative Business Structures)
	1985 Act s.26(2)(c)	
	2007 Act s.101	
Payment of a penalty	1985 Act s.24A(1), s.26(2)(e)	CLC Adjudication Panel (Recognised Bodies) Senior Management Team (Alternative Business Structures)
	2007 Act s.95	
Reprimand	1985 Act s.26(2)(f)	CLC Adjudication Panel (Recognised Bodies)

### Appealing a decision

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

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

### Publication of decisions

To educate CLC practices, deter further non-compliance, and maintain public confidence, the CLC will publish anonymised case studies of informal actions, as well as determinations of the Adjudication Panel. Refer to the CLC's website for more information.

### Monitoring and Escalation Procedure

Monitoring and Informal action (*staff investigation and advice*): Where the CLC is aware of potential non-compliance it carries-out a practice inspection. If the breach is less serious, informal action is taken. The practice will be managed into compliance.

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

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

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