

College Policies and Procedures

ANTI-MONEY LAUNDERING

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<i>Date Effective From</i>	<i>July 2021</i>
<i>Date last amended</i>	<i>14th October 2019</i>
<i>Date agreed by FEC</i>	<i>31st July 2021</i>
<i>Review Date</i>	<i>31 July 2023</i>

Anti-money laundering

1. Policy Statement

South Essex College will take appropriate steps to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual and suspected cases.

2. Statement of Principles

The College is committed to adhering to legislation and protecting staff from money laundering.

The College will proactively train relevant staff in the policy and make the policy and procedure available to all staff

3. Explanation of Key Terms

3.1 What is money laundering

In UK law, money laundering is defined very widely. It includes all forms of using or possessing criminal property regardless of how obtained. It also includes facilitating any use or possession of criminal property. Criminal property may take any form; some examples are money, a reduction in a liability, tangible property and intangible property.

Money laundering can be carried out both in respect of proceeds from conduct that is an offence in the UK but also, in most cases, in respect of proceeds from overseas conduct that would have been an offence if it had taken place in the UK.

Money laundering activity may include:

- A single act, e.g. being in possession of the proceeds of one's own crime such as evading income tax;
- Complex and sophisticated schemes involving multiple parties;
- Multiple methods of handling and transferring criminal property;
- Concealing criminal property or entering into arrangements to assist others to do so.

A person commits a money laundering offence if he:

- Conceals, disguises, converts or transfers criminal property;
- Enters into or becomes concerned in an arrangement which he knows or suspects facilitates money laundering; or
- Acquires, uses or has possession of criminal property except where adequate consideration was given for the property.

3.2 What laws exist to control money laundering

Laws have been passed which shift significantly the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, being up to 14 years imprisonment and/or an unlimited fine for those who are convicted of breaking the law. The main legislation is contained in the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007.

All staff need to be alert to the possibility that attempts may be made to involve the College in a transaction involving money laundering. Accordingly, the College will maintain a procedure intended to deter money laundering and for verifying the identity of counterparties and reporting suspicions to the Deputy Principal & Chief Executive, who is the Money Laundering Reporting Officer (MLRO) for the College and its subsidiary and joint venture companies. Relevant staff members will be provided with appropriate money laundering training to ensure that they are:

- aware of their duties under the relevant legislation
- understand how to put these requirements into practice when performing their roles
- updated with any changes to the policies, systems and controls that are used by the College for AML purposes, or to the changing money laundering risks facing the College

There are three principal offences:

Concealing is where someone knows or suspects a case of money laundering but conceals or disguises its existence.

Arranging is where someone involves himself or herself in an arrangement to assist in money laundering.

Acquisition is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

There are two 'third party' offences – failure to disclose one of the three principal offences and 'tipping off'. Tipping off is where someone informs a person or people who are, or are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

All the money laundering offences may be committed by an organisation or by the individuals working for it.

Money laundering offences may be tried at a magistrate's court or in the Crown Court depending upon the severity of the suspected fraud. Trials at the former can attract fines of up to £5,000, up to six months in prison or both. In a Crown Court, fines are unlimited and sentences from two to fourteen years may be handed out.

The offences of failing to report or tipping off attract maximum penalties of 5 years' imprisonment and/or a fine.

4. Responsibilities and Duties

4.1 The College is required to establish internal procedures to prevent the use of its services for money laundering and is required to:

- appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity;
- implement a procedure to require the reporting of suspicions of Money Laundering;
- train staff (finance, international and budget holders) in the policy and procedures;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

4.2 Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO. The disclosure should be as soon as the information comes to your attention, not weeks or months later. Should you not do so, then you may be liable to prosecution. Your disclosure should be made to the (MLRO) and should include as much detail as possible.

4.3 Once you have reported the matter to the MLRO you must follow any directions given to you. You must not make any further enquiries into the matter yourself. Do not voice any suspicion to the person(s) whom you suspect of money laundering, otherwise you may commit a 'tipping off' offence. Similarly do not make any reference on a client file to a report having been made to the MLRO. The MLRO will keep appropriate records in a confidential manner.

4.4 Once the MLRO has evaluated the disclosure report and any other relevant information, the MLRO must make a timely determination as to whether

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that this is the case; or
- whether the suspicion of an offence needs to be reported to the National Crime Agency (NCA); and
- whether the MLRO needs to seek consent from the NCA for a particular transaction to proceed.

- 4.5 All Suspicious Activity Reports referred to the MLRO and reports made by the MLRO to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 4.6 The MLRO commits a criminal offence if the MLRO knows or suspects, or has reasonable grounds to do so, through a disclosure being made to the MLRO, that another person is engaged in money laundering and the MLRO does not disclose this as soon as practicable to the NCA.

5. Client identification procedure

- 5.1 Where the College carries out relevant business (teaching, learning and assessment) in the UK and overseas and:

- forms an on-going business relationship with a client; or
- undertakes a one-off transaction involving payment by or to the client of; or
- it is known or suspected that a one-off transaction (or a series of them) involves money laundering

then staff must obtain satisfactory evidence of the identity of the prospective client and all records should be kept for at least 5 years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering. The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail, for example, identifying the client and the relevant transaction and recording in what form any funds were received or paid.

Required client identification procedures are:

(a) Where identity relates to individuals:

- Government issued photo-ID should be obtained (for example photo driving licence or passport);
- Other acceptable proof of identity where the individual is assessed as low risk; and
- Acceptable proof of residential address and date of birth

(b) Where identity relates to an organisation

(i) For companies:

- Determine who are the beneficial owners, i.e. those who control 25% or more of the company. This could be achieved by searching the Register of Companies on the Companies House website. In complex group structures or where the company is controlled overseas, advice as to the appropriate procedures to be performed should be sought from the MLRO.
- Identification procedures as detailed above should then be performed on the individuals who are the beneficial owners.

- (ii) For charities:
 - Determine who are the trustees. This could be achieved by searching the Charity Commission website.
 - Identification procedures as detailed above should then be performed on the individuals who are the most significant trustees, e.g. the Chair and the Chair of the Finance Committee.
- (iii) For other entities:
 - Guidance should be sought from the MLRO as to the appropriate identification procedures to be performed.

Money Laundering Risk Assessment Considerations

1. Is the client based outside the UK?
2. Does the sector the client operates in, its scale or locations differ substantially from the majority of other existing clients?
3. Have we met any senior representatives of the client face to face?
4. Does the client (and where relevant its beneficial owners) have significant overseas transactions or activities (including 'offshore' transactions)?
5. Is the client a politically exposed, high profile or controversial figure or associated with such a figure?
6. Is it unclear why the client wishes to use our services?
7. Are there any other factors which might suggest the client poses a higher than normal risk of money laundering?
8. Is the transaction or client based in, or connected to, any of the countries deemed to be of high risk as specified by the Financial Action Task Force?

Examples of situations most likely to give rise to money laundering or suspicion of it (adapted from CIPFA 2005 and IIA 2003 guidance)

- A transaction involving an unusually large amount of cash. This will particularly be suspicious if the cash paid exceeds the amount necessary to settle a transaction and would result in a non-cash refund. This would include double payments.
- Transactions or trades that appear to make no commercial or economic sense from the perspective of the other party. A money launderer's objective is to disguise the origin of the criminal funds, and not necessarily to make a profit. A launderer may therefore undertake transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system by appearing to be legally derived.
- Payments received from third parties. Money launderers will often look to legitimate business activity to 'clean' criminal funds by making payments on behalf of a legitimate company.
- Transactions where the identity of the party is difficult to establish or is undisclosed.

- Transaction where the party is evasive as to the source or destiny of funds.
- Transactions with companies or individuals in offshore jurisdictions. Some jurisdictions can provide money launderers with the facility to hide their true identity. Extra care should be taken when undertaking business with such companies/individuals.
- Changes to payment instructions to the use of offshore funds. Payments are normally made to or from a UK bank to establish a business relationship and then changed to a bank in an off shore jurisdiction.

Identifying money laundering and associated offences

Money laundering is the processing of criminal proceeds to disguise their illegal origin. It also includes money, from any source, which is used to fund terrorism. There are a number of associated offences that are also specified in the legislation that cover offences in relation to failures to apply adequate due diligence and subsequent failures to properly disclose these or complicit in prejudicing an investigation

Examples of due diligence offences which include the following:

- failure to apply customer due diligence;
- failure to apply ongoing monitoring of business relationships and customer due diligence;
- failure to comply with timing on verification of clients and any beneficial owner;
- failure to apply enhanced customer due diligence and monitoring where required;
- failure to keep required records; and/or
- continuing with a business relationship where unable to apply due diligence