

# AML FIRM WIDE RISK ASSESSMENT (FWRA)

## The Eric Whitehead Partnership Limited

### 1) Introduction

The Eric Whitehead Partnership operates from our offices in Cheadle, Stoke-on-Trent and is a high street practice which predominantly deals with residential conveyancing, family, wills, probate and lasting powers of attorney. The firm has four Directors and currently employs fourteen other members of staff.

During the financial year to the end of April 2023 the overall turnover for our business was just over £920,000 and our fee income was generated as follows:

- 51% Residential Conveyancing
- 35% Probate, Wills & Lasting Powers of Attorney
- 8% Commercial Conveyancing
- 3% Matrimonial
- 3% Other

Over the last twelve months:

- there have been no internal/external suspicious activity reports.
- there have been no issues regarding reporting processes, "tipping off" etc.
- there have been no issues have arisen regarding PEPS or sanctions.
- the position of COLP & MLRO (and deputy) have not changed.
- there have been material changes to the firm's structure (i.e. mergers/offices/work type) that may increase the risk of money laundering.

We have considered where our practice is at risk of involvement in money laundering and/ or terrorist financing, taking into account the size and nature of our business in relation to:

- A) our clients
- B) the locations in which we and our clients operate
- C) the services we offer
- D) the type of transactions in which we are involved
- E) our internal and operational risks
- F) emerging risks; and
- G) delivery channels

## 2) External Sources of Information

- Risk factors set out in the ***Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017***, as amended (MLR);
- the UK's ***National Risk Assessment (NRA)*** updated in December 2020;
- the ***SRA's Risk Outlook report: cryptocurrencies*** issued February 2023;
- the ***Financial Action Task Force's (FATF)*** jurisdictions under increased monitoring and high-risk jurisdictions subject to a call for action updated October 2023
- ***HM Treasury Advisory Notice on High Risk Third Countries*** updated June 2023
- the ***National Crime Agency's national strategic assessment***, updated in July 2023 to identify threats posed by proliferation financing, sanctions, cybercrime, money mules, Chinese underground banking, crypto assets and vulnerabilities in corporate structures;
- the ***SRA's Sectoral Risk Assessment*** updated 24<sup>th</sup> July 2023 to remove legal cannabis and covid-19 as key risks, and updated on proliferation financing and financial sanctions risks;
- the ***SRA's Risk Outlook: managing regulatory risk during economic uncertainty*** issued 28<sup>th</sup> July 2023;
- ***Economic Crime and Corporate Transparency Act 2023 (ECCTA 2023)*** which includes reforms to Companies House, preventing abuse of limited partnerships, unlimited fines etc.
- ***SRA Warning Notice – Client & Matter Risk Assessments*** dated 18<sup>th</sup> October 2023.
- ***SRA Guidance Note – Proceeds of Crime*** dated 18<sup>th</sup> October 2023
- ***SAR's Report Booklet November 2023*** produced in line with the National Crime Agency's commitment to share perspectives on the SARs regime
- the ***Legal Services Affinity Group (LSAG) Guidance*** which was updated in April 2023 to provide an update on proliferation financing and discrepancies in company registrations, and again in December 2023. As of 10<sup>th</sup> January 2024 the status of UK PEP's is different to overseas PEP's.
- ***SRA Guidance Note – Sanctions*** Regime dated 23<sup>rd</sup> January 2024
- ***UK Government Russia Sanctions Guidance*** updated 30<sup>th</sup> January 2024.

### 3) Analysis

#### A) Client Risk

We undertake client due diligence for all our clients and verify their identification either in person or by using our online identification verification provider Thirdfort.

We also do an Initial Risk Assessment for each matter which is updated as the matter progresses and also when it concludes.

The sanctions list is checked for each new client (and counter-parties if applicable) and we confirm either by using Thirdfort or internet searches that the client is not a politically exposed person. If the client was found to be on the sanctions list or a PEP then this would be referred to the MLRO/COLP before proceeding and enhanced due diligence would apply.

#### Sources of work

Our instructions come primarily from private individual clients. Where instructions come directly from a client that isn't an existing client, despite the risk of money laundering in the non-regulated sector being low, we still complete CDD.

Our residential conveyancing instructions typically come from:

- Repeat Instructions
- Recommendations from friends or family members that have used us previously
- Estate Agents
- Mortgage brokers
- Staff members or family and friends of staff members
- Review Solicitors Website

We set out our approach to client identification and verification in line with our Anti-Money Laundering Policy:

- client identification (and verification thereof).
- understanding the client's background and circumstances (including financial position) and assessing whether the legal services provided to the client are in keeping with your understanding of that background and circumstances.
- identifying the person who instructs us on behalf of a client (such as a person who represents a company) and checking they are authorised so to act.
- taking reasonable measures to understand the ownership and control structure of any company, trust, or other entity we act for.
- identifying any beneficial owners and taking "reasonable measures to verify the identity of the beneficial owner" so we are satisfied that we know who the beneficial owner is.
- assessing the purpose and intended nature of the business relationship or transaction and where necessary obtaining information on that subject.

- assessing risk – CDD and ongoing monitoring must be done on a risk-sensitive basis, and this includes checking if a client or beneficial owner may be “politically exposed” (see section below covering PEPs).
- ongoing monitoring of the business relationship including where necessary the source of funds.

We are aware that private clients may seek the provision of legal services for both genuine and criminal purposes, and that conveyancing is a high-risk service which is attractive to UK criminals, and we therefore assess the risk of money laundering or terrorist financing through this aspect of our business to be **Medium/High**.

#### B) Geography

Our client base is predominantly based in our geographical area, mainly individuals or families, local businesses and other organisations, most of whom are known to the firm and have been past clients. We do, however, receive instructions from clients throughout the UK, particularly in conveyancing matters.

We do not have a client base with individuals or entities in high-risk jurisdictions but this is confirmed at the outset and monitored as the matter progresses.

We are based in the United Kingdom and the UK is a FATF registered country and is ranked as low risk on the Transparency International Corruptions Perception Index.

We therefore assess the risk of money laundering or terrorist financing through this aspect of our business to be **Medium**.

#### C) Services

The risk profile in relation to money laundering, terrorist financing and proliferation financing of the firm’s departments are assessed as follows (in declining order of assessed risk):

- Residential conveyancing: **High** (particularly when acting for buyers and when the property market is booming)
- Commercial property: **High** (particularly when acting for buyers / investors and non-institutional lenders; lower when dealing with the grant or assignment of business leases at market rent)
- Private client: **Medium**
- Family: **Low to Medium**
- Employment: **Low**

We therefore assess the risk of money laundering or terrorist financing through this aspect of our business to be **Medium to High**.

#### D) Transactional Risks

The firm occasionally accepts payment in cash but only up to a limit of £500.

The firm does not accept funds from third parties or send funds to third parties not involved in the transaction in which we are dealing. We are aware that criminals can seek to disguise

the source of funds by having payments made by or to associates or third parties. This is a way of disguising assets therefore we make sure that we identify the source of funds and source of wealth to mitigate this risk.

We are aware that taking instructions from third parties, including family members poses a higher risk as it requires the firm to undertake checks on the third party, ensure that confidentiality implications are considered, and the client's prior consent is obtained. We review all matters on a weekly basis to minimise this risk.

We therefore assess the risk of money laundering or terrorist financing through this aspect of our business to be **Low**.

#### E) Operational Risks

We are aware that a member of staff or director may use the name, bank account and reputation of the firm deliberately to carry out money laundering or fraud. We undertake regular AML screening and do not have a high turnover of staff.

Our firm does not offer financial incentives, such as bonus schemes, to employees which could have the potential to tempt some employees to overlook regulatory requirements in order to attain financial gain.

There are no known deficiencies in training on AML/CTF. The firm adopts the following strategy with regard to internal AML training for staff:

- All new starter fee earners and support staff receive AML training, tailored to their position, which includes the following key areas as a minimum: recognising suspicious circumstances/ red flags to look out for, what the law on AML is, how to undertake CDD checks in accordance with the firms procedures, when and how to carry out a sanctions check, how to report suspicions internally, non-reporting of suspicions is a criminal offence, an understanding of what tipping off is and how to avoid doing it and record keeping and data protection requirements.
- All employees receive AML awareness/refresher training, which is reflective of the AML risks associated with their role, annually in the following areas:
  - Anti-Money Laundering
  - PEPS & Sanctions
  - Avoiding Bribery Risks
  - Risk Management
  - Solicitors Accounts Rules

In addition, conveyancing fee earners receive annual training in the following areas:

- Anti-Facilitating Tax Evasion for Law Firms
- Risk, Compliance and Client Care
- Protocol in Practice
- Financial Crime

All employees are also enrolled on a monthly compliance update webinar from Access legal and a quarterly AML compliance update webinar.

- Agents such as consultants, locums and temporary staff who are involved, on our behalf, with regulated work will also be provided with appropriate training dependant on and proportionate to the extent of the terms on which they are engaged.
- The MLRO undertakes regular file reviews to ensure files are being handled correctly, in line with the firm's AML regime, and circulate details of the findings/areas for improvement/learning points to all relevant staff thereafter.
- The MLRO will circulate summaries of relevant case law, regulatory decisions and legal press articles relating to real-life examples of where AML has come into play, as and when they come to light, by way of learning points and reminders to all relevant employees.
- Any material change to the legislative AML regime or the firm's internal policies will prompt a training review and refresher training for all relevant staff.

The firm operates a client account. We are aware that there is a risk of the client account being exploited by criminals to transfer funds to third parties, effectively breaking the audit trail to launder funds. To reduce this risk, we carry out thorough CDD checks in each transaction and only accept funds when they are required, once we are satisfied with these checks. In addition, we only allow funds to transfer through client account where there is a legitimate underlying legal transaction. All funds transferred from the firm's client account must be set up by a member of the accounts team and authorised by a director (no-one can act alone).

We have clear financial controls, and have appropriate oversight of everyone in the firm (particularly regarding client money and transactions).

We therefore assess the risk of money laundering or terrorist financing through this aspect of our business to be **Low**.

#### F) Emerging Risks

**Global pandemics:** As a result of the Covid-19 pandemic/cost of living crisis/looming economic recession, the UK economy has entered a period of significant economic downturn. This has potentially left some firms in a vulnerable position, where they might be more likely to become involved in business areas and relationships they would otherwise have avoided. Criminals know this is happening and are looking to exploit those firms where tolerance to risk has increased. To mitigate against the risk, we have robust AML policies, controls and procedures (including the accurate assessment of risks at every level) in place.

**Wider economic pressures:** A separate issue which is of growing importance is the issue of sufficient resourcing of AML work. Economic conditions have deteriorated and there is much uncertainty for firms. Firms are likely to be under pressure to reduce costs, and elements of businesses that do not directly generate revenue might see their budgets reduced.

Whatever decisions are made about resourcing, we understand that economic conditions do not change the requirement to comply with the regulations. In fact, the economic conditions are more likely to increase our exposure to would-be money launderers, emboldened by a perception that they are in a position of relative strength in dealing with firms. To mitigate

against this risk as a firm we are committed to importance of this work, and we are regularly reviewing and improving our internal training and risk assessments

New types of technology: There are risks in the use of new types of financial technology, e.g., fund transfer systems and crowdfunding platforms. Any use of new technologies will be preceded by an assessment of the risks they may introduce and effective mitigation of these risks where possible.

This greater use of technology in all respects also heightens the importance of cyber security. Cyber security breaches could allow criminals to gain total access to both client's sensitive data and the firm's systems, allowing them to be used for laundering money. To mitigate against this risk all employees undertake training via our Cyber Clear Risk Academy. The firm also has the Cyber Essentials accreditation and has Cyber Insurance in place.

Crypto assets and currencies: We currently have no plans to accept or use cryptocurrencies. Any use of new cryptocurrencies will be preceded by a thorough assessment of the risks they may introduce and effective mitigation of these risks where possible.

Proliferation Financing: We are aware of the risk of proliferation financing, which is the act of providing funds or financial services in connection with chemical, biological, radiological or nuclear weapons (from the manufacture to the use of said weapons). We have assessed our risk to be low due to our firm's client base, location and practice areas but we will reassess on a regular basis.

We therefore assess the risk of money laundering or terrorist financing through this aspect of our business to be **Medium**.

#### G) Delivery Channel Risk

We deal with our clients in face to face meetings, telephone calls, in writing and by email. For all matters, including non-money laundering regulated work, we confirm the identity of the client (we use the Thirdfort verification platform to assist with this) and verify that the client is who they purport to be.

It is rare for someone other than the client to be giving instructions, but if this happens we would verify their identity and their status to do so. If the client wishes funds to be sent to a third party, it is our policy that we send them only to our client.

We have assessed the risk of "passporting" (where a client instructs a firm on a low risk matter to avoid scrutiny on a later high risk matter). As we risk assess and complete CDD on all matters, we therefore assess the risk of money laundering or terrorist financing through this aspect of our business to be **Low**.

#### 4) Conclusions from the FWRA

We deal with a high level of conveyancing work which is considered high risk. However, to mitigate against the risk we have robust AML policies, training, controls and procedures in place.

**Overall, we therefore consider this firm to be medium compared to most law firms.**

##### Our key risk area:

Conveyancing is a high-risk service, which is attractive to criminals for the purposes of laundering money.

Criminals may acquire property using criminal funds as this provides an opportunity to launder a substantial sum in a single transaction. Buyers may be mere nominees for criminals who are funding the purchase.

Property is an attractive asset for criminals because of the large amounts of money that can be laundered through a single transaction, and the fact that property will tend to appreciate, can be used to generate rental income or can be lived in. For these reasons, property transactions also often involve a risk of mortgage fraud, or other property-related fraud.

##### The effectiveness of our current systems and controls:

We are committed as a firm to mitigate the risk wherever possible by undertaking regular file reviews, investing in training, implementing new procedures and reviewing/improving existing policies and procedures.

We have recently introduced a pro-forma source of funds and wealth file note to improve the firmwide consistency of evidencing the fee earners' decision making process on purchase matters.

We have also introduced a sanctions policy in December 2023, and have registered for the NCA SAR Portal in readiness for if/when required.

The firm has invested in an intranet to make all policies, procedures and updated guidance easily accessible to all staff.

We also have regular meetings in order to effectively communicate any regulatory updates and any amendments to existing or new policies and procedures.

- To mitigate the risk in our Conveyancing work, we have weekly conveyancing meetings where all new updates from the Law Society, SRA, Bold Legal, Access Legal, CQS updates etc are discussed.

All individual matters are reviewed for risk at the onset. Before any matter can proceed to exchange, the file has to be independently reviewed (pre-exchange review) and a further risk review must be undertaken.

A closing risk review is completed as part of our file closure procedure.

The firm obtained Conveyancing Quality Scheme accreditation at the first attempt in December 2011 and this accreditation was renewed in December 2023.

- To mitigate the risk in our private client work, we have a monthly meeting where all new updates from the Law Society, SRA, Solicitors for the Elderly, WIQS updates etc are discussed.

All individual matters are reviewed for risk at the onset, and before any matter can proceed to distribution, the file has to be independently reviewed (pre-distribution review).

A closing risk review is completed as part of our file closure procedure.

The firm obtained Wills and Inheritance Quality Scheme accreditation at the first attempt in February 2023.

- We hold monthly fee earners meetings where Lexcel standard file reviews are completed to identify any quality issues or training requirements.

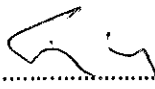
The firm obtained Lexcel accreditation (evidence of compliance with the Law Society's Practice Management Standards) at the first attempt in January 2006. The firm is re-assessed annually (usually in December) in respect of its Lexcel accreditation. The firm is currently assessed against the latest version of Lexcel and was re-awarded Lexcel accreditation in December 2023.

- The COFA completes monthly file reviews to ensure that the Solicitors Accounts Rules are being adhered to and all procedures followed. These are reviewed at the monthly COLP & COFA meeting to identify any issues/training requirements.

The COFA is a member of the Institute of Legal Finance & Management which provides resources, training & support in respect of legal accounts, solicitors account rules and law firm management including dedicated COFA support.

- The MLRO/MLCO completes monthly file AML audits to ensure that all employees are following the firms' policies and procedures and to identify any training requirements.
- The findings from the above are referred to the firms' independent audit function to examine, evaluate, monitor and make recommendations regarding the adequacy and effectiveness of its AML and CFT policies, controls and procedures.
- The firm is a member of the Law Society Risk & Compliance section which provides regular updates in the form of a Legal Compliance magazine, webinars, events and resources to help firms manage compliance.
- We hold monthly support staff meetings to ensure that any AML regulatory updates, findings from audits and any amendments in procedures can be effectively communicated and training provided to all employees of the firm.

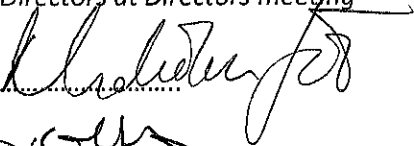
This record reflects the firm's current risks. It will be reviewed *annually* or sooner in the event of major changes which are likely to affect the firm's AML risks.


Signed .....  .....


Dated ..... 7/2/24 .....

Prepared by *Timothy Halliday MLRO, MLCO & COLP*

Approved by *Directors at Directors meeting*

Signed .....  .....

Signed .....  .....

Signed .....  .....

Dated ..... 7/2/24 .....

Next Review Date: 31<sup>st</sup> August 2024