

Introduction to Money Laundering

Money laundering is the process of taking profits from crime and corruption and transforming them into legitimate assets. It takes criminally-derived 'dirty funds' and converts them into other assets so they can be reintroduced into legitimate commerce. This process conceals the true origin or ownership of the funds, and so 'cleans' them. Most anti-money laundering laws link money laundering with the financing of terrorism, drug crime or other serious criminal offences.

There are three stages in money laundering;

- placement is where the proceeds of criminal activity enter into the financial system;
- layering distances the money from its illegal source through layers of financial transactions; and finally,
- integration involves the re-introduction of the illegal proceeds into legitimate commerce by providing an apparently-genuine explanation for the funds.

In the UK, severe penalties are imposed on individuals connected with any stage of laundering money, including unlimited fines and/or terms of imprisonment ranging from 2 to 14 years. Offences include:

- failing to report knowledge and/or suspicion of money laundering
- failing to have adequate procedures to guard against money laundering
- knowingly assisting money launderers
- tipping-off suspected money launderers
- recklessly making a false or misleading statement in the context of money laundering

In practice, an ostensibly legitimate and regular transaction - such as the payment of student fees and their subsequent refund - can disguise money laundering and it is essential that the University and its subsidiaries deploy a range of policies and procedures to ensure that they do not become involved in money laundering by inadvertently legitimising suspect individuals or transactions.

Background to the UK Legislative Framework

In the UK, the approach to money laundering and terrorist financing is based on objectives that are specified in legislation and/or Financial Conduct Authority (FCA) rules. However, often the objective will be a requirement of an EU Directive, incorporated into UK law without any further elaboration with the result that UK organisations have discretion in how the objective should be met.

This approach is part of a wider UK government move to risk-based regulation, which allows organisations to assess their risks relevant to their operations, and then put in place the processes and procedures that the organisation itself deems necessary.

Key elements of the UK AML framework that apply to universities include:

- Proceeds of Crime Act 2002 (as amended)
- Terrorism Act 2000 (as amended by the Anti-terrorism, Crime and Security Act 2001)
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017)
- Counter-terrorism Act 2008, Schedule 7
- HM Treasury Sanctions Notices and News Releases

- Joint Money Laundering Steering Group (JMLSG) Guidance

This policy reflects the requirements of the EU's Fourth Money Laundering Directive (4MLD) which have been transposed into UK law through the Money Laundering Regulations (MLR) 2017

UK legislative framework – Money Laundering Regulations 2017 changes

The intention of the Money Laundering Regulations 2017 is to improve upon and close-off some of the shortcomings in the Money Laundering Regulations 2007, including:

- Changing the approach to Customer Due Diligence (CDD)
- Prevent new methods of terrorist financing, including through e-money and prepaid cards
- Improving transparency of beneficial ownership of companies and trusts
- Effectively enforcing sanctions

As far as the University is concerned this means we now are required to adopt a more risk-based approach towards anti-money laundering, and in how we conduct due diligence. Determining what is the appropriate level of due diligence for us requires analysis of risk factors based on the EU Directive, which are set out in the Money Laundering Regulations 2017.

Risk assessment and management

The University has appointed the Chief Resource Officer and University Secretary as its nominated Money Laundering Reporting Officer ("MLRO").

The following types of risks have been identified which, either alone or collectively, could indicate the possibility of money laundering (especially, but not exclusively where the University deals with new customers, business partners or sponsors):

- Payments in cash in excess of 10,000 Euros (approximately £9,000) where the payer fails to provide proper evidence to confirm their identity and address;
- A secretive person or business who refuses to or delays in giving requested information - examples may include invoices that exclude VAT, fail to quote a VAT number or invoices issued by a limited company that lack the company's registered office and number;
- Concerns about the honesty, integrity, identity or location of individuals or businesses;
- Involvement of an unconnected party in a transaction for no obvious reason;
- Applications from high risk countries. A list of high risk and non-cooperative jurisdictions can be found on The Financial Action Task Force (FATF) website; <http://www.fatf-gafi.org/> – additionally, a consolidated list of targets of financial sanctions is published by HM Treasury on <https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases> and US Department of Treasury on [https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx\[DAH1\]](https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx[DAH1]) ;

- Request for cancellation or reversal of funds or requests for refunds (particularly to a different account or individual to the payer) i.e. “circular transactions”, where a payment to the University is followed by an attempt to obtain a refund from the University;
- Absence of a legitimate source of funds;
- Unusual or unexpected large payments or overpayments;
- A potential supplier submits a very low quotation or tender (the risk being that the supplier business may be subsidised by the proceeds of crime with the aim of seeking payment from the College in “clean” money;
- Agents who do not fit in with normal procedures relating to deposits and tuition fees;
- Identity fraud;
- Requests for account details outside the normal course of business; and
- Poor business records, controls or inconsistent dealings.

Process steps to mitigate risk

Receipts of cash

- Restrict the amount of cash that can be taken over the counter in the cashiers’ office to £1000.

Issuing refunds

- Refunds where the original payment was made using a credit or debit card will be refunded to that card
- Refunds made by bank transfer will be refunded to the same account. In cases where the originating bank account has been closed it may be possible to make a payment to a new bank account in the same country and in the same name as the original account.
- International payments received through Flywire will be refunded through Flywire.
- Where payment of tuition fees or any other charges has been split between more than one payee, any refund due will be made in proportion to the original split.
- Refunds will not be made in cash. In cases where the original fee was paid in cash, the refund will be made to a valid UK bank account in the name of the payer.

Customer due diligence

As required by the MLR 2017, the University has policies and procedures for performing customer due diligence (“CDD”), and the transaction monitoring arrangements on a risk-managed basis with systems and controls in place to mitigate any financial crime risks. As required by the MLR 2017, we can demonstrate and have documented the risk assessment as listed above which will be reviewed annually. Our customer due diligence follows the principles of Know Your Customer (KYC), one of the fundamental precepts of global anti-money laundering regulations. This due diligence process

identifies business relationships and customers and, hence, ascertain relevant information whereby the identity of a new customer (the 'beneficial owner') must be established before a business or financial relationship can begin or proceed. We retain the CDD records relied on for five years from the date on which reliance commences as failure to do so is a criminal offence.

Reporting

Where you know or suspect that money laundering activity is taking place, or has taken place, or you are concerned that a transaction may be in breach of regulations, you must disclose immediately. The University, through the MLRO, will take all reasonable steps to identify and report suspicious transactions, of all types.

You should not make any further enquiries unless you are instructed to do so and should not voice your suspicions to anyone who you suspect of money laundering or discuss the matter with colleagues. If you were to do so, you may be committing a criminal offence, the penalty for which is up to 5 years imprisonment or an unlimited fine.

Any breach of this policy is considered to be a serious matter and is likely to result in disciplinary action.