



## **AML Certificate 2023 Guidance Notes**

**Please read this guidance document before submitting your AML Certificate information**

**Please note there are also FAQs and short video tutorials on our dedicated [AML Certificate webpage](#), as well with guidance embedded in the Certificate, including pop-up information boxes to assist you in certificate completion**



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### **Introduction**

**The AML Certificate is a mandatory annual questionnaire posed to all practices under the scope of the Law Society's AML supervision.**

**The certificate provides the Society's AML team with an indication of inherent AML risks posed to each in scope practice and as such, accuracy is important when completing the certificate.**

**The information we request is information we expect Practice Units to collate in order to satisfy regulatory and practice rule requirements and will allow practices to demonstrate good AML control and governance to the Society in line with LSAG Guidance.**

**Practices should therefore be able to answer the questions posed with a high level of accuracy, based on records held.**

**The Portal for submission will open February 2024  
and your submission is due by Tuesday 30<sup>th</sup> April  
2024**



## **Section 1 – Who Should Complete an AML Certificate?**

### **Who Should Complete an AML Certificate:**

- It is compulsory for all practices under the scope of the Law Society's AML supervision to complete and submit an AML Certificate for the relevant period.

### **Who should not complete an AML Certificate?:**

- Practices that carry out no 'relevant work' should not complete this certificate and if they have not already done so, should complete and submit an [exemption declaration](mailto:aml@lawscot.org.uk) to [aml@lawscot.org.uk](mailto:aml@lawscot.org.uk).
- Wholly owned subsidiaries of parent practices should not complete a separate certificate. The parent practice's certificate must include work undertaken by any subsidiary.
- If your practice is part of a multi-domiciliary/multinational with a separate legal entity outside of Scotland, you should answer the questions only insofar as they pertain to the entity with the registered address in Scotland. However, where your practice is a parent to any overseas subsidiary with relevant business, you must capture that subsidiary business in this AML Certificate, if the fee goes through the parent entity.
- Subsidiary branches should not complete this certificate e.g., YourPractice Trustees Limited, YourPractice Nominees etc. The work of these subsidiary companies should be captured in the parent practices AML Certificate.

If you have received a reminder to complete the AML Certificate, but any of the above applies to your practice (or you are unclear regarding any of the above information) you should contact us at [aml@lawscot.org.uk](mailto:aml@lawscot.org.uk)

### **The Relevant Period:**

The relevant period covered by questions in this Certificate is **1 January 2023 – 31 December 2023**, please only report data which is relevant to that timeframe.

However, to make it easier for you, the question on gross fees can be from your last reported financial year end.

**Relevant work:**

Relevant services covered by our AML Certificate submission are stipulated in [r.12](#) of the UK Money Laundering Regulations:

- (a) The buying and selling of real property or business entities
- (b) The managing of client money, securities, or other assets
- (c) The opening or management of bank, savings, or securities accounts
- (d) The organisation of contributions necessary for the creation, operation, or management of companies; or
- (e) The creation, operation or management of trusts, companies, foundations, or similar structures

The questions contained in the certificate generally ask about specific services, but for clarity you should never include any numbers pertaining to **non-relevant** work in your submission.

**Non-relevant work:**

Examples of non-relevant work include:

- Criminal defence
- Divorce and family law
- Litigation, and immigration.
- When answering questions on trust work, you should not include any executry figures. (If, in the course of winding up an estate, you form any secondary trusts or carry out any other 'Relevant Work', you must enter these numbers.)



**Guidance:**

Guidance pages precede each section of the AML Certificate, you must read and confirm you have done so before completing each section.

Information boxes also appear within the certificate next to certain questions containing further information - **(i)**

If need be, please refer back to this AML Certificate Guidance booklet, AML Certificate FAQs and/or tutorial videos available on our dedicated [AML certificate webpage](#) before submitting any queries to [aml@lawscot.org.uk](mailto:aml@lawscot.org.uk)

You can print a Word version of the certificate [HERE](#)

**Certificate Submission:**

We **cannot** accept hard/paper copies submissions. All submissions must be made via the online portal.

**Your submission is due by 30 April 2024**



## **Section 2 – Getting Started**

### **Important**

**Please follow the login instructions below.**

**Please pay particular attention to the instruction regarding:**

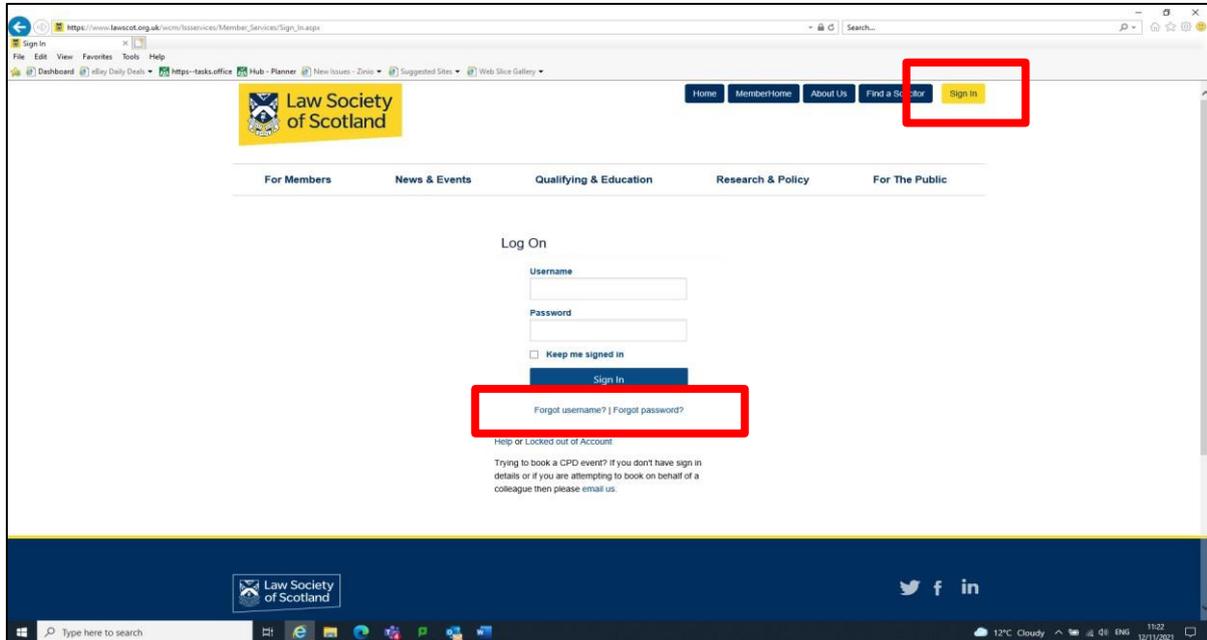
### **“Finding your Practice”**

**From the dropdown box. If you do not, select your practice from the dropdown, you may be able to complete the form but not submit. You may lose your work and need to start the process**

### **Logging In:**

The **MLRO** should sign into the members area of our website using their **own personal Society membership login credentials** (i.e., not the practice’s login credentials).

If you have lost these credentials or need them to be reset, please use the “Forgot Username”, or “Forgot Password” (*shown below*)



Once logged in with their own personal login credentials, the MLRO will see an 'AML' tab on the left-hand side (*see the following page for illustration*)

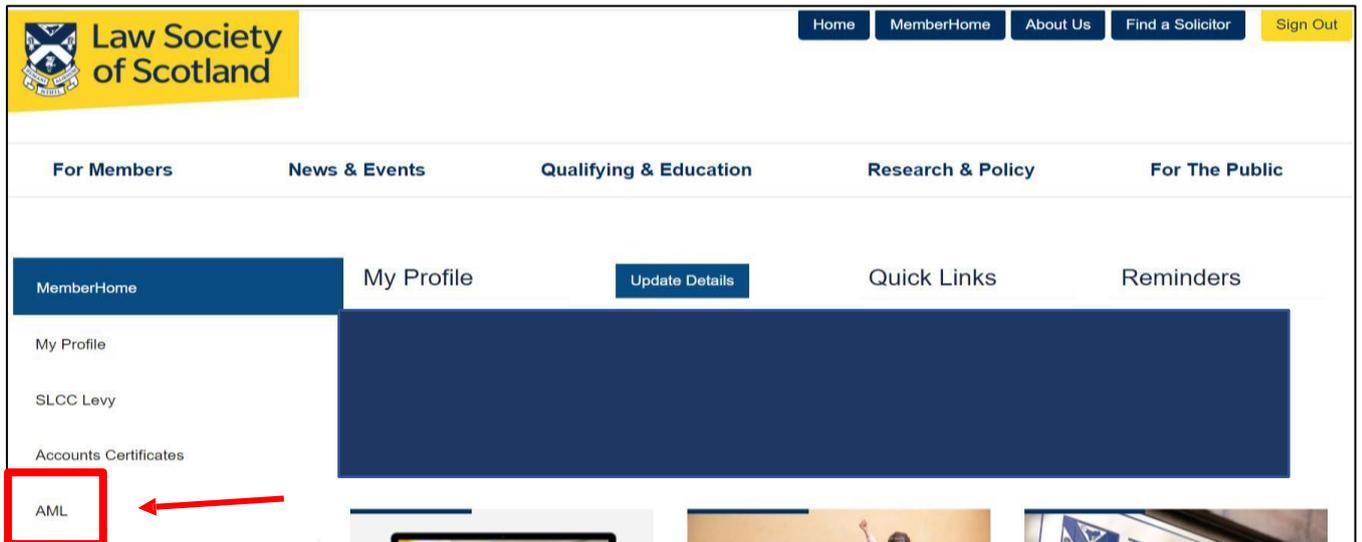
The MLRO is the only member of staff who will automatically be able to access the AML Certificate portal.

If the MLRO is unable to access the portal, please try the password reset function before checking with Member Registration Team ([member.registration@lawscot.org.uk](mailto:member.registration@lawscot.org.uk)) that they are correctly registered as MLRO and that all details and credentials are up to date.

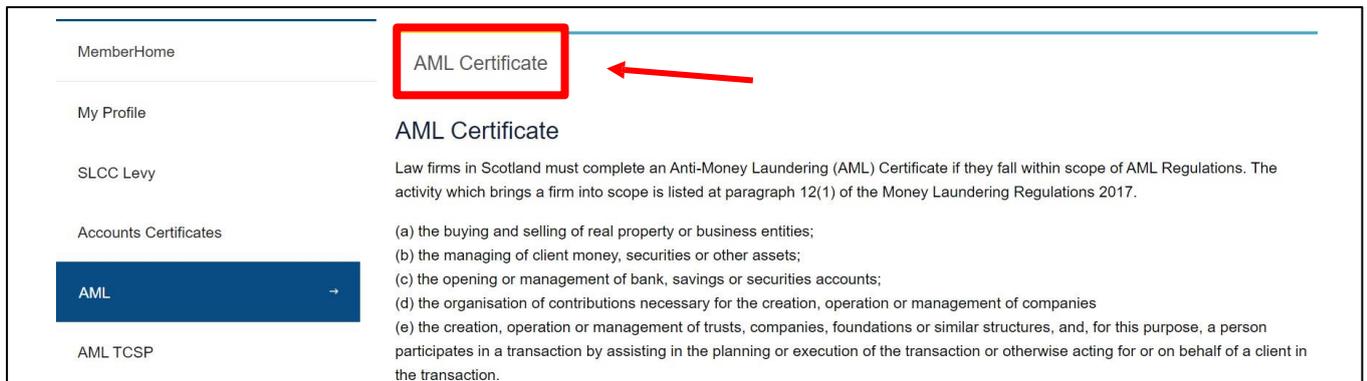
It is possible for one other member of staff to be nominated as a delegated person in order to complete the AML Certificate (For details of how to nominate and set up a delegated person, see '**Delegated Person**' in the guidance below).



**Getting Started:**



Once logged on clicking 'AML' will take you to the general AML portal where you will see an 'AML Certificate' tab and within that tab you should see the option to select "AML Certificate"





Available guidance and FAQs found on the [AML Certificate webpage](#) should be read and understood in tandem with this document before moving on to

## 'Begin Form'

It may also be useful to view the online video tutorials found on the [AML Certificate webpage](#).

**Crucially, the first step after clicking 'Begin Form' is to tell us on behalf of which practice you are completing the form.**

**You should do this by clicking the 'Find Practice' button, as shown below.**

The screenshot shows a web form interface. At the top right, there are navigation buttons: 'Previous Page' (light blue), 'Next Page' (dark blue), a dropdown menu showing '1-Form', and a 'Go' button (dark blue). Below this, the form is divided into sections: 'Contact Info', 'Business', 'Form', and 'General'. Under 'Contact Info', there is a 'Submission No' field with the value '000032'. Below that, a text prompt says 'Use the find button to select the firm(OBO)'. To the right of this prompt is a dropdown menu with 'Sir B' selected. Below the dropdown is a 'Find' button, which is highlighted with a red rectangular box. A red arrow points from the right towards the 'Find' button. Below the 'Business' section, there is a 'Form' section, and under 'General', there is an 'MLRO details' section.

**Please be aware** - If you do not use the **"Find"** button, you may be able to follow and complete the certificate but not then able to save/submit to the Society and any responses you have entered may be lost requiring you to start the form again.

You **MUST** therefore **'Find'** your practice first.

Once you select your practice, the box will remain grey but **will** show your practice.



You can now complete the Certificate on behalf of your practice. Once complete only the MLRO will be able to submit the Certificate and following submission the data cannot be amended.

**Please be sure to save your progress at regular intervals after using the Find Practice button and entering your Certificate information**



### **Section 3 – Further Guidance**

#### **Password reset:**

There is a password reset function within the portal. Screenshots of where to find it are noted above.

#### **Delegated person:**

The MLRO will be the only person able to see and access the AML Certificate portal when they sign in.

However, the MLRO can set up a '**Delegated Person**' by contacting the Member Registration Team ([member.registration@lawscot.org.uk](mailto:member.registration@lawscot.org.uk)) and providing details of that person.

The '**Delegated Person**' will then have access to the form to help the MLRO complete it, however **only** the MLRO will ever be able to press the '**Submit**' button at the end.

#### **Saving a copy:**

Please save a copy of your certificate submission to your local secure drive should you wish to refer back to it following submission within the portal.

Once submitted the data in the certificate cannot be amended.



## **Section 4 – Interpretations**

The Law Society of Scotland uses information obtained through AML Certificate questionnaire to assess inherent AML risk within and across the member population.

To this end, some brackets, thresholds, and interpretations have been set by us in a way which relates *specifically* to our needs.

The thresholds and interpretations referred to across the AML Certificate and related guidance should not be taken as indications of their relationship to wider AML obligations. For example, Conveyancing between £100k and £1m is not an indication of risk within or below that bracket.

### **MLCO (Previously known as Board Level Person):**

[r.21](#) obliges practices, depending on their size and nature, to appoint a Money Laundering Compliance Officer (MLCO previously known as Board Level Person) to be responsible for compliance with the Money Laundering Regulations.

This is a separate position from the MLRO, though they may be the same person. Not all practices may require a MLCO, you should consider the size and nature of your practice when deciding whether or not to appoint one.

Further guidance can be found in the [LSAG Guidance](#) – Sections 4.4 Money Laundering Compliance Officer (MLCO) and 4.5 Practices with both a MLRO and a MLCO.

### **Gross Fees:**

Whilst the vast majority of the AML Certificate refers to a specific relevant period (1<sup>st</sup> January 2023 – 31<sup>st</sup> December 2023) you should enter your gross fees using your last financial year end gross fees.

If you are a new practice and you are unable to provide these figures, please input £0.00.

### **Gross Fees for AML regulated work:**

Please only report gross fees for AML regulated work captured within the certificate in this section. AML regulated work is defined in the introduction section of this booklet.

Further information can be obtained by referring to question 3 in our online [AML Certificate FAQs](#)

If you are a new practice and you are unable to provide these figures, please input £0.00



**Conveyancing:**

For the purpose of the AML Certificate, conveyancing refers to any purchase, sale, or transfer of title.

Do not include discharge of security, re-mortgaging or any conveyancing matter which was aborted **before** funds were transferred (apart from where specifically requested).

**Conveyancing – Buy to let:**

Buy to let conveyancing of private residences should be reported in the Residential Conveyancing section, not Commercial.

Buy to let conveyancing of larger commercial spaces should be reported in the Commercial Conveyancing section.

**Conveyancing – Residential vs Commercial:**

Residential conveyancing numbers should include conveyances where the property owner at the end of your matter was using the property as a private residence.

To illustrate, if you acted for a landowner in the sale of land to a commercial housebuilder, this is a commercial conveyance.

**Executry:**

Due to the lower risk inherent in executry work, you should not enter any information which relates to executries at your practice.

For example, where the AML Certificate questionnaire asks for numbers of trusts formed, you should **not** enter such trust formations as undertaken in the disposal of an estate by a will (However, secondary trusts instructed on by beneficiaries would be reportable as they are not the direct result of the will)



### **Higher Risk Industries:**

Understanding the business profile of clients is an important step in risk assessing that client and matter.

Designated higher risk industries are outlined in the [LSAG Guidance](#) - Section 5.6.1.3 Clients in higher risk sectors:

- Domestic and international public work contracts and construction, including post conflict reconstruction
- Businesses utilising new or unproven technology, that might make them vulnerable to being used for money laundering
- High value goods businesses
- Items of archaeological, historical, cultural, and religious significance or of rare scientific value (this may be of particularly high risk in jurisdictions with exposure to terrorism or terrorist financing activities)
- Aspects of the nuclear industry with vulnerability to proliferation risk
- Mining (including precious metals, diamonds or other gemstones and trading of these materials)
- Arms manufacturing/supply and the defence industry
- Tobacco products
- Gambling
- Crypto-asset wallet providers and exchanges
- Unregulated charities (particularly those operating in higher risk jurisdictions)
- Money transfer businesses
- Ivory and other items and materials related to protected species
- Real estate and property development
- The oil and gas industry (with the exception of the buying and selling of fuel for domestic consumption or retail)

We understand that you can only provide this information where you are aware of it.

If you do not yet assess these factors as part of your risk assessment, you should do so going forward in line with relevant sections of the [LSAG Guidance](#) – 5.6 Risk Factors for consideration at all levels of Risk Assessment

The nature of a client’s business can have significant implications for your risk assessment of both your practice, and individual client/matters.



### **Non Face to Face:**

For the purposes of the AML Certificate, this should be taken to mean matters where you have not had any physical face to face contact with the client.

Where you have, for example, conducted a video call with the client as part of the identification and verification process, you may consider this as face to face in line with [Non face-to-face identification and verification | Law Society of Scotland \(lawscot.org.uk\)](https://www.lawscot.org.uk/non-face-to-face-identification-and-verification)

Please see the LSAG Advisory Note - [Preventing Money Laundering During COVID-19](#) for further information.

### **UK v Non-UK:**

In the context of the AML Certificate if an entity is referred to as UK or non-UK

- For individuals, this means their place of residence
- For corporates, this means the country in which they are registered
- A trust should be considered 'UK' if the majority of trustees are UK resident **and** the settlor is/was UK resident
- A trust should be considered 'non-UK' if **either** the majority of trustees are non-UK resident, **or** the settlor is/was non-UK resident (or both)

### **Non-UK ownership:**

For the purpose of the AML Certificate, references to non-UK 'ownership' or 'ownership structure' should be taken to include **any layer** of the direct beneficial ownership chain which is non-UK – i.e., non-UK does not solely mean in relation to the jurisdiction in which the ultimate beneficial owner is resident.

### **Ongoing TCSP services:**

Please note that ongoing relationships in Trust and Company Services (registered office, secretarial, nominee shareholder etc.) are reportable in this certificate.

Regardless of whether you have interacted with or charged a fee for these services during the relevant period, you are in an ongoing service provision to these clients.



### **Ownership:**

Generally, references to ownership or ownership structure should be taken to include **any layer** of the direct beneficial ownership chain, not just the true ultimate beneficial owners as defined in the Money Laundering Regulations (*See also 'non-UK ownership'*)

Instances where we are asking about the 'beneficial owner' per the regulations will be clearly labelled as such.

### **Physical Cash:**

Physical cash payments mean **actual physical cash money** (*bank notes and coins*) brought to your practice for deposit into your client account.

Do not include funds which have been transferred from bank or building society accounts.

Please see [LSAG Guidance](#) – Section 5.16.2 Client accounts and payments for further information.

### **Aborted transactions:**

For the purposes of this certificate, aborted transactions refer to any matter where client funds were transferred to your client account, but the matter subsequently did not complete, and funds were returned (*directly to the account/s or parties from which they were received*)

Please see [LSAG Guidance](#) – Section 5.16.2 Client accounts and payments for further information.

### **Politically Exposed Persons (PEPs):**

PEP has the meaning given in [r.35](#) and includes family or close associates of PEPs.

PEPs, their family members and their known close associates may present a higher risk than non-PEPs as they may be at greater risk of abusing public office for private gain and further.

Please see [LSAG Guidance](#) – Section 5.6.1.2 Politically Exposed Persons (PEPs) for further information.



**Scottish Limited Partnerships (SLPs):**

A Scottish Limited Partnership is a distinct legal entity type in the UK and can be ascertained by its registration number beginning with the prefix 'SL'.

Please see [LSAG Guidance](#) – Section 6.14.13 Partnerships, limited partnerships, Scottish limited partnerships, and UK LLPs for further information.