Do I have a suspicion that a money laundering offence is occurring?

Yes

Do I suspect a retainer relates to criminal property?

No

It cannot be money laundering

Yes

Do I suspect a s327 offence?

No

Does the retainer involve litigation, dispute resolution, mediation or settlement negotiations? (s328)

Yes

Are these a sham?

No

Consider other principal offences

No

Has an arrangement been entered into? (s328)

Yes

Do I suspect that the arrangement facilitates the acquisition, retention or use of criminal property? (s328)

No

You do not suspect a principal offence. Monitor the retainer. If you are in the regulated sector – would a reasonable person in the regulated sector have suspected? If yes, consider the failure to disclose flowchart.

No

No s328 offence has been committed yet – if future conduct of the retainer will cause an arrangement to be entered into – answer yes at the last box. and seek consent from the NCA

No

Yes

No s328 offence can occur, but your client could end up with criminal property contrary to section 329 and needs independent legal advice.

Yes

You need to consider making a disclosure to the NCA

Then consider other principal offences

No

Has the property been acquired for adequate consideration?
I suspect continuation of a retainer will lead to me being party to a principal offence. Do I have a defence?

- Was the information on which your suspicion is based covered by common law LPP?
  - Yes
  - No

  - Has the information lost its LPP status due to disclosure?
    - Yes
    - No

  - Do I have prima facie evidence that I am being used to further a criminal purpose?
    - Yes
    - No

- The information is protected and you have a reasonable excuse for not reporting

- Document your reasons

- Do I have any other reasonable excuse for not making a disclosure?
  - Yes
  - No

  - If relevant seek consent from the NCA for further steps to be undertaken

- Make a disclosure to the NCA

- Consider the ethical and civil liability risks and decide either to continue or to withdraw

- If relevant seek client consent to waive LPP

- Client says Yes

- Client says No

- No
I suspect someone else of a principal offence, or should reasonably suspect them, and am concerned I may commit a failure to disclose offence. Do I have a defence?

- **Do you know the identity of the other person?**
  - Yes
  - No

- **Do you know the whereabouts of the criminal property?**
  - Yes
  - No

- **Would the information on which your suspicion is based help law enforcement identify the launderer or find the property?**
  - Yes
  - No

- **Did you receive the information in the course of your business in the regulated sector or otherwise in the course of your employment?**
  - Yes
  - No

- **Is the information covered by common law LPP?**
  - Yes
  - No

- **Has the information lost its LPP status due to disclosure?**
  - Yes
  - No

- **Do I have any other reasonable excuse for not making a disclosure?**
  - Yes
  - No

- **Document your reasons and consider ethical implications**
  - Make a disclosure to the NCA
  - Information is protected and you do not commit an offence

- **Information is protected and you do not commit an offence**
  - Client says Yes
  - Client says No

- **Client says Yes**
  - If relevant, seek client consent to waive LPP
  - The information is protected and have a reasonable excuse for not reporting

- **Client says No**
  - Consider the ethical and civil liability risks and decide either to continue or to withdraw

- **No disclosure is required and you do not commit an offence**
  - Yes
  - No

- **Is the information on which your suspicion is based help law enforcement identify the launderer or find the property?**
  - Yes
  - No

- **Do I have prima facie evidence that I am being used to further a criminal purpose?**
  - Yes
  - No

- **The information is protected and have a reasonable excuse for not reporting**
  - Consider the ethical and civil liability risks and decide either to continue or to withdraw