

L. ANTI-MONEY LAUNDERING POLICY

Money laundering involves the “cleaning” of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, are introduced into the financial system where they are laundered enabling them to leave the system appearing to come from a legitimate source.

The Council enters into thousands of transactions every day and could be subject to money laundering attempts when accepting payments by cash, cheque or credit/debit cards, for instance in relation to the purchase of a council house or payment of substantial bills.

All staff have a duty to report any suspicions to the Money Laundering Reporting Officer (currently Simon George) or his deputy. There is a template for reports attached to this policy. The MLRO will then decide on the appropriate action to take.

Staff that regularly accept payments and the legal team will receive training on money laundering.

1.0 INTRODUCTION

- 1.1 There have recently been significant changes to the legislation concerning money laundering. On 15 December 2007 the new Money Laundering Regulations 2007 (the “Regulations”) were introduced (revoking the 2003 Regulations). It implemented the Third EU Money Laundering Directive in the UK, bringing us in line with all European Union countries and making it more difficult for criminals to obtain the proceeds of their crimes as well as preventing terrorist funding.
- 1.2 The Primary anti-money laundering offences are now embodied within the Proceeds of Crime Act 2002 (POCA) and the Terrorism Act 2000 (TACT).
- 1.3 The definition of money laundering has been broadened and there is now an increased range of activities caught by the statutory framework. As a result, the new obligations now impact on certain areas of local authority business and require them to establish internal procedures to prevent the use of their services for money laundering and plan the scope of customer due diligence (previously called ‘identification procedures’ in the 2003 Regulations). There is now a stronger emphasis on professional services to know their clients and monitor how their clients use their services.
- 1.4 In general terms money laundering involves the “cleaning” of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, are introduced into the financial system where they are laundered enabling them to leave the system appearing to come from a legitimate source.

1.5 There are three stages to a money laundering process: -

- Placement: - the disposal of the cash proceeds derived from illegal activities in order to convert it into a non-cash asset. With the development of anti-money laundering (AML) processes within banks and financial institutions, it means that criminals are looking for other targets;
- Layering: - the carrying out of a number of transactions with no purpose other than to create a structure of complex layers of financial transactions in order to conceal the source of funds; and
- Integration: - returning the proceeds to the economy; now originating from a legitimate source.

1.6 Prior to February 2003 money laundering was limited to the laundering of the proceeds of indictable crimes, drugs and terrorism. POCA introduced a new set of money laundering offences in the UK which are applicable to all criminal property gained in any criminal conduct: -

- Criminal Conduct is conduct which constitutes an offence in any part of the UK or would constitute an offence in any part of UK if it occurred there (Section 340 (2) of POCA)
- Criminal Property is property which, represents a person's benefit from criminal conduct, or it represents such a benefit (in whole or part and whether directly or indirectly) and the alleged offender knows or suspects that it constitutes or represents such a benefit.

1.6 These Regulations highlight the importance of ongoing monitoring and altering the level of customer due diligence depending upon the level of risk involved. The changes highlight the importance of monitoring and identifying the beneficial owner of a customer and if dealing with regulated firms which were once unregulated, clarifying their supervision arrangements.

2.0 SCOPE OF THE POLICY

2.1 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct, which currently exist within the Council by preventing criminal activity through money laundering.

2.2 The Policy sets out the procedures, which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.

2.3 Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

3.0 WHAT IS MONEY LAUNDERING?

3.1 There are five main elements that constitute an offence:

- **Concealing** - you commit this offence if you conceal, disguise, convert, or transfer criminal property or remove it from England, Wales, Scotland or Northern Ireland (Section 327 POCA).
- **Arrangements** – you commit an offence if you enter into or become concerned in an arrangement which you know or suspect facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person Section 328 POCA).
- **Acquisition use and possession** – you commit an offence if you acquire, use or have possession of criminal property (Section 329 POCA).
- **Failure to disclose** – it is an offence not to report knowledge or suspicion of money laundering where you acquired such knowledge or suspicion in the course of your work (Section 330 POCA).
- **Tipping Off** – Prejudicing an investigation being carried out by making a disclosure to the suspect or a third party being investigated is an offence (Section 333A POCA).

3.2 **Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it or act to tip off.**

3.3 Whilst the risk to the Council of contravening the legislation is low, **it is extremely important that all employees are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation.**

4.0 WHAT ARE THE COUNCIL'S OBLIGATIONS?

4.1 Organisations conducting “relevant business” must:

- **Appoint** a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else’s);
- **Implement** a procedure to enable the reporting of suspicions of money laundering;
- **Maintain** client due diligence procedures in certain circumstances; and
- **Maintain** record keeping procedures.

4.2 Not all of the Council’s business is “relevant” for the purposes of the legislation: it is mainly the accountancy and audit services carried out by Financial Services and the financial, company and property transactions undertaken by Legal Services. However, the safest way to ensure compliance with the law is to apply them to all

areas of work undertaken by the Council; therefore, **all** staff are required to comply with the reporting procedure set out in section 6 below.

- 4.3 The following sections of this Policy provide further detail about the requirements listed in paragraph 4.1.

5.0 THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

- 5.1 The officer nominated to receive disclosures about money laundering activity within the Council is Simon George, Director of Finance and Assurance. They can be contacted as follows:

Name: Simon George
Address: Director of Finance and Assurance,
Harrow Council
Room 304, Third Floor,
West Wing, Civic 1
Station Road
Harrow
Middlesex HA1 2UJ
Contact details: 020 8420 9269 Ext 5269:
Email: simon.george@harrow.gov.uk

- 5.2 In the absence of the MLRO, Dawn Calvert, Head of Strategic Finance & Business, is authorised to deputise for them, and they can be contacted at the above address or on telephone number 020 8424 1393 (ext 2393) or email dawn.calvert@harrow.gov.uk
- 5.3 In the absence of both the MLRO and their deputy, you must contact your Head of Service for advice.

6.0 DISCLOSURE PROCEDURE

Reporting to the Money Laundering Reporting Officer

- 6.1 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 or deputy. The disclosure should be within “hours” of the information coming to your attention**, not weeks or months later. **SHOULD YOU NOT DO SO, THEN YOU MAY BE LIABLE TO PROSECUTION. The only exception to this is where you suspect the MLRO or Deputy is involved and to make a disclosure to either of them would be tipping off. In these circumstances you must call the Serious Organised Crime Agency for advice.**
- 6.2 Your disclosure should be made to the MLRO using the proforma report attached at Appendix 1. The report must include as much detail as possible, for example:
- Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;

- Full details of the nature of their/your involvement:
 - If you are concerned that your involvement in the transaction would amount to a prohibited act under the Money Laundering Legislation then your report must include all relevant details, as you will need consent from the Serious Organised Crime Agency (“SOCA”) which incorporated the National Criminal Intelligence Service (“NCIS”), via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given.
 - You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.
- The types of money laundering activity involved if you are able to identify them from the categories in section 3.1 above.
- The dates of such activities, including:
 - Whether the **transactions have happened, are ongoing or are imminent**;
 - Where they took place;
 - How they were undertaken;
 - The (likely) amount of money/assets involved;
 - Why, exactly, you are suspicious – SOCA will require full reasons;

Along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable her to prepare her report to SOCA, where appropriate, you should also enclose copies of any relevant supporting documentation.

- 6.3 Once you have reported the matter to the MLRO you must follow any directions the may give you. **You must NOT make any further enquiries into the matter yourself.** Any necessary investigation will be undertaken by SOCA. Simply report your suspicions to the MLRO who will refer the matter on to SOCA if appropriate. **All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.**
- 6.4 Similarly, **at no time and under no circumstances should you voice any suspicions or raise suspicions by your actions** to the person(s) whom you suspect of money laundering, even if SOCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO otherwise you may commit a criminal offence of “tipping off” (see 3.1 above).
- 6.5 **Do not, therefore, make any reference on a client file to a report having been made to the MLRO** – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

Consideration of the disclosure by the Money Laundering Reporting Officer

- 6.6 Upon receipt of a disclosure report, the MLRO must note the date of receipt on her section of the report and acknowledge receipt of it. They should also advise you of the timescale within which they expect to respond to you. Usually this will be within 10 working days.
- 6.7 The MLRO will consider the report and any other available internal information they think relevant e.g.:
- Reviewing other transaction patterns and volumes;
 - The length of any business relationship involved;
 - The number of any one-off transactions and linked one-off transactions;
 - Any identification evidence held;

And undertake such other reasonable enquiries they think appropriate in order to ensure that all available information is taken into account in deciding whether a suspicious activity report (SAR) to SOCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

- 6.8 The MLRO will have access to the Corporate Anti-Fraud Team and Internal Audit to conduct enquiries on her behalf. The MLRO will report all incidents to Internal Audit for inclusion in the register of Suspected Financial Irregularities.
- 6.9 Once the MLRO has evaluated the disclosure report and any other relevant information, they 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 is the case; and
 - Whether they need to seek consent from SOCA for a particular transaction to proceed.
- 6.10 Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to SOCA on their standard report form. Their preferred method of receiving SARs is electronically through the SARs online system at www.soca.go.uk. If this is not possible, then the MLRO may send it via email, using links approved by SOCA or by post or fax in the prescribed manner.
- 6.11 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then they must note the report accordingly; they can then immediately give their consent for any ongoing or imminent transactions to proceed. In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to SOCA.
- 6.12 Although unlikely within a local government context, legal advisers who consider that legal professional privilege may apply should explain in the Report to the MLRO the reasons fully as to why they contend the information is privilege. In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether the information is exempt from the requirement to report suspected money laundering to SOCA.

- 6.13 Where consent is required from SOCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until SOCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from SOCA.
- 6.14 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then they shall mark the report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.
- 6.15 All disclosure reports referred to the MLRO and reports made by them to SOCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 6.16 The MLRO commits a criminal offence if they know or suspect, or has reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to SOCA.

7.0 CUSTOMER DUE DILIGENCE (CDD)

- 7.1 Customer Due Diligence (CDD) is a procedure which is carried out when undertaking 'regulated activities' (this is the provision 'by way of business' of amongst other things certain legal services, accountancy, audit, and other financial services) which requires that extra care is taken to check the identity of the customer or client.
- 7.2 Where the Council is carrying out relevant business (accountancy, tax, audit and certain legal services) and:
- a) Forms an ongoing business relationship with a client which is expected to have an element of duration; or
 - b) Undertakes a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £10,000) or more; or
 - c) Undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £10,000) or more; or
 - d) It is known or suspected that a one-off transaction (or a series of them) involves money laundering or terrorist financing; or
 - e) Doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification

then the CDD must be followed before any business is undertaken for that client. Verification may be carried out during the establishment of the business relationship where it is necessary not to interrupt the normal conduct of business and there is little risk of money laundering/terrorist financing occurring, provided that the verification is completed as soon as practicable after contact is first established.

7.3 The Regulations concerning CDD are detailed and complicated, however there are simple questions to assist you in deciding whether it is relevant:

- Is the service a regulated activity?
- Is the Council charging for the service i.e. is it 'by way of business'?
- Is the service being provided to a customer other than a UK public authority?

If the answer to any of the above questions is **no** then it is not necessary for you to carry out CDD.

If the answer to all these questions is **yes** it will be necessary for you to carry out CDD before any business relationship can commence with the client. Any queries should be directed to the MLRO.

7.4 CDD is based on a risk-based approach. Its purpose is to verify that the client is who they say they are and that their money comes from a legitimate source, is being used for a legitimate purpose and that the transaction taking place is legitimate. CDD is an ongoing process.

7.5 This can be achieved by conducting some simple enquiries such as:

- checking with the customer's website to confirm their business address;
- conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
- attending to the client at their business address;
- seeking evidence from the key contact of their personal identity, for example their passport, and their position within the organisation.

7.6 It is a requirement under CDD that it applies as soon as we become involved with a new customer it should be applied on a risk sensitive basis for existing customers. You should bear in mind that CDD continues during the business relationship and should be applied in proportion to the risk of money laundering and terrorist funding, dependant upon the officer's knowledge of the customer and a regular scrutiny of the transactions undertaken.

7.7 If at any time, you suspect that a current client or customer or one you are planning to carry out a regulated activity, is conducting money laundering or terrorist financing, or has lied about their identity then you must report this to the MLRO.

7.8 Enhanced CDD is the gathering of additional evidence of identity or source of funds to be used in a transaction where:

- the client has not been physically present for identification;
- the client is a politically exposed person, that is an individual who at any time in the previous year has held a prominent public function outside of the UK and EU or international institution/body, this also includes their immediate family members or close associates;
- there is a beneficial owner who is not your client. A beneficial owner is a person who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

- 7.9 To satisfy the requirements of enhanced CDD, you should acquire additional documentation, data or information confirming the client's identity and/or the source of the finances to be used in the business relationship or transaction. If it becomes necessary to engage in enhanced CDD, the MLRO must be notified prior to undertaking any action.
- 7.10 Once instructions to provide relevant business have been received, and it has been established that any of the paragraphs 7.1 to 7.9 apply, evidence of identity should be obtained as follows.

Internal clients:

- 7.11 Appropriate evidence of identity for Council departments will be signed, written instructions on Council headed notepaper or an email on the internal GroupWise/Outlook email system at the outset of a particular matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

External Clients:

- 7.12 The MLRO will maintain a central file of general client identification evidence regarding the external organisations to whom Financial Services and Legal Services provide professional services. You should check with the MLRO that the organisation in respect of which you require identification is included in the MLRO's central file and check the precise details contained in relation to that organisation. If the organisation is not included in the central file, you should discuss with the MLRO. You should also then obtain the following additional evidence.
- 7.13 For external clients, appropriate additional evidence of identity will be written instructions on the organisation's official letterhead at the outset of the matter or an email from the organisation's e-communication system. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located (and including a reference to a search of the MLRO's central file, if undertaken).
- 7.14 With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself.
- 7.15 In all cases, the evidence should be retained for at least five years from the end of the business relationship or transaction(s).
- 7.16 If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot proceed any further.

8.0 RECORD KEEPING PROCEDURES AND REPORTING

- 8.1 Each unit of the Council conducting relevant business must maintain records of:
- Client identification evidence obtained; and
 - Details of all relevant business transactions carried out for clients

for at least five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

- 8.2 The precise nature of the records is not prescribed by law; however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.
- 8.3 Wherever possible copies of verification evidence of client identification should be kept in a separate location additional to the client identification information on the client files.
- 8.4 Money Laundering incidents will be reported to the Governance, Audit and Risk Management Committee as part of the regular updates on Internal Audit activity.

9 **GUIDANCE AND TRAINING**

- 9.1 In support of the policy and procedure, the Council will **provide and update training for all relevant staff in respect of its procedures to prevent and identify money laundering and anti-terrorism situations:**

10 **RISK AREAS FOR LOCAL AUTHORITIES**

- 10.1 Officer knew or ought to have known – could lead to convictions
- 10.2 Investment of third party funds
- 10.3 Property
- 10.4 Highways and planning agreement payments
- 10.5 Cash transactions unless collecting statutory charges in circumstances which are not obviously suspicious.

11.0 **CONCLUSION**

- 11.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written so as to enable the Council to meet the legal requirements in a way that is proportionate to the risk to the Council of contravening the legislation.
- 11.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

18 March 2009

CONFIDENTIAL

Report to Money Laundering Reporting Officer

To: **Money Laundering Reporting Officer**

From:
[insert name of employee]

Directorate: **Ext/Tel**

DETAILS OF SUSPECTED OFFENCE:

Name(s) and address(es) of person(s) involved:
[if a company/public body please include details of nature of business]

Nature, value and timing of activity involved:
[Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:
[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)?
[Please tick the relevant box]

Yes

No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

[Please tick the relevant box]

Yes

No

If yes, please specify below, explaining why such discussion was necessary:

Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society)

[Please tick the relevant box]

Yes

No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the SOCA? (e.g. are you a lawyer and wish to claim legal professional privilege?)

[Please tick the relevant box]

Yes

No

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act under sections 327- 329 of POCA and which requires appropriate consent from the SOCA?

Yes

No

[Please tick the relevant box]

If yes, please enclose details in the box below:

Please set out below any other information you feel is relevant:

Signed: dated.....

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years' imprisonment.

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE:

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money-laundering activity?

If there are reasonable grounds for suspicion, will a report be made to SOCA? *[Please tick the relevant box]* Yes No

If yes, please confirm date of report to SOCA:
.....
and complete the box below:

Details of liaison with SOCA regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts? Yes No

If yes, please confirm full details in the box below:

.....

Date consent received from SOCA:

Date consent given by you to employee:

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to SOCA, please set out below the reason(s) for non-disclosure:

[Please set out any reasonable excuse for non-disclosure]

Date consent given by you to employee for any prohibited act transactions to proceed:

Other relevant information:

Signed:.....

Dated:.....

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS