

Anti-Money Laundering Policy

Document owner:	Antony Baden, Group Head of Finance & S151 Officer
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1.0 Introduction

The Proceeds of Crime Act 2002 and the Terrorism Act 2000 place certain obligations on the Council and its employees regarding suspected money laundering.

Any employee could potentially 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. Failure to report these suspicions is a criminal offence.

This policy has therefore been adopted in order to provide guidance and introduce safeguards to help staff identify and report instances where money laundering is suspected.

2.0 Objectives and Scope

The policy sets out the procedures which must be followed to enable employees to comply with their legal obligations.

The aim of this policy is to prevent criminal activity through money laundering by:

- raising awareness of the legal and regulatory requirements affecting both individuals and the Council as a whole; and
- helping employees to correctly respond to any concerns they may have about money laundering in the course of their dealings for the Council.

This policy applies to all employees, whether permanent or temporary.

3.0 What is Money Laundering?

3.1 Definition

Money laundering is generally understood to mean the process by which illegally acquired funds (i.e. from crime or terrorism) are moved through financial systems so that they appear to come from a legitimate source. However, the term also covers a range of activities, which do not necessarily need to involve money.

3.2 Legislation

The main requirements of the UK anti-money laundering regime are set out in the:

- Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005 and further amended by the Serious Crime Act 2015)
- Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001 and the Terrorism Act 2006 and further amended by the Money Laundering Regulations 2007)
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (which supersede the Money Laundering Regulations 2007, 2012 and 2015).

Whilst local authorities are not subject to the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, guidance from the Chartered Institute of Public Finance & Accountancy (CIPFA) indicates that they should still comply with the underlying spirit of the

legislation and regulations by taking all reasonable steps to minimise the likelihood of money laundering, including putting in place proper policies and procedures.

3.3 *Legislative Requirements*

The main requirements of the legislation are:

- To nominate a Money Laundering Reporting Officer (MLRO)
- Maintain client identification procedures in certain circumstances
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures.

3.4 *Offences*

Money laundering offences under the Proceeds of Crime Act 2002 include:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327);
- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328); and
- acquiring, using or possessing criminal property (section 329).

There are also two secondary offences:

- failure to disclose any of the three primary offences above; and
- “tipping off” whereby somebody informs a person or persons who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

The Terrorism Act 2000 includes the money laundering offence of becoming concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism.

3.5 *Penalties*

The consequences for staff committing an offence are potentially very serious. Money laundering offences may be tried at a Magistrates’ Court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison or both. In a Crown Court, fines are unlimited, and sentences from two to fourteen years may be imposed.

4.0 **The Money Laundering Reporting Officer (MLRO)**

The officer nominated to receive disclosures about money laundering activity within the Council is Antony Baden, the Group Head of Finance & Section 151 Officer.

5.0 **How do I know when money laundering is taking place?**

It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively, suggest possible money laundering activity:

- Payment of a substantial sum in cash (i.e. over £10,000)
- Payment of lower cash sums where cash is not the normal means of payment

- A new customer or use of new/shell companies
- A secretive customer – e.g. refuses to provide requested information without a reasonable explanation
- Concerns about the honesty, integrity, identity or location of a customer
- Illogical third party transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts
- Involvement of an unconnected third party without logical reason or explanation
- Overpayments by a customer or payments of deposits subsequently requested back
- Absence of an obvious legitimate source of funds
- Movement of funds overseas, particularly to a higher risk country or tax haven
- Unusual transactions or ways of conducting business, without reasonable explanation
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational
- The cancellation or reversal of an earlier transaction
- Requests for release of customer account details other than in the normal course of business
- Transactions at substantially above or below fair market values
- Poor business records or internal accounting controls
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO
- Lack of ‘traceability’ of persons involved
- Individuals and companies that are insolvent yet have funds.

Facts that tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise.

6.0 What should I do if I suspect a case of money laundering?

Anyone who knows or suspects money laundering activity is either taking, or has taken, place **must** inform the MLRO immediately, either in person or in writing by completing Part A of the disclosure form included at the end of the policy.

If you do not disclose information immediately, then you may be liable to criminal prosecution.

If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 to 329 of the Proceeds of Crime Act 2002, then your report must include all relevant details, as you will need consent from the National Crime Agency, via the MLRO, to take any further part in the transaction.

You should 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.

You must follow any subsequent directions from the MLRO but must not make any further enquiries into the matter or any related transactions.

You must not disclose or indicate your suspicions to the person suspected of the money laundering as this could be regarded as “tipping off” which is itself an offence.

Similarly, you must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.

7.0 What will the MLRO do?

The MLRO will consider the report and any other available internal information he thinks relevant. This may include:

- 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.

The MLRO will undertake any other enquiries deemed appropriate and will ensure that all available information is taken into account before deciding whether a report to the National Crime Agency (NCA) is required. When making further enquiries the MLRO must avoid any action which could tip off those involved, or which could give the appearance of tipping them off.

The MLRO may also need to discuss the report with you.

If the MLRO concludes that there is actual money laundering taking place, or that there are reasonable grounds to suspect so, he will record his reasoning in Part B of the disclosure form (included at the end of this policy) and must submit a Suspicious Activity Report (SAR) to the NCA immediately.

If consent is required to proceed with transactions for any prohibited acts under sections 327 to 329 of the Proceeds of Crime Act 2002, this can also be requested when the MLRO submits his report.

SARs are now submitted online through a secure portal via the NCA website www.nationalcrimeagency.gov.uk (registration required). This provides instant confirmation and a reference number once the report has been received.

The system does not retain a file copy for your use, so the MLRO should keep a copy of the report.

The MLRO will commit a criminal offence if he knows or suspects, or has reasonable grounds to do so, that another person is engaged in money laundering, and he does not disclose this to the NCA as soon as practicable.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering, or he suspects money laundering but has a good reason for non-disclosure, then this must be noted accordingly on Part B of the disclosure form and consent given in writing for any ongoing or imminent transactions to proceed. The MLRO should consult with the Council's Legal Services before reaching a non-disclosure decision. If in any doubt, the MLRO should always disclose.

8.0 Customer Due Diligence

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 require 'relevant persons' (i.e. credit and financial institutions, audit and accountants' firms, tax advisers and insolvency practitioners,

independent legal professionals, trust or company service providers, estate agents, high value dealers and casinos) to perform additional checks when undertaking certain activities in the course of their business. This process is known as customer due diligence.

Customer due diligence measures consist of identifying and verifying the identity of the customer, and any beneficial owner of the customer, and obtaining information on the purpose and intended nature of the business relationship. Regulated businesses are required to undertake these measures where they establish a business relationship, carry out an occasional transaction over 15,000 euros, suspect money laundering or terrorist financing or doubt the accuracy of customer identification information.

The regulations concerning customer due diligence are detailed and complicated, and there is no legal obligation for local authorities to carry them out. However, Council employees are encouraged to adopt the regulations where practical to minimise the likelihood of money laundering.

The basic identity check for **existing business customers** is to verify that signed, written instructions on the organisation's headed paper were obtained at the outset of the business relationship.

For **new business customers**, the Council can exercise due diligence by conducting some simple enquiries such as:

- checking with the customer's website to confirm their business address
- conducting an online 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 of the key contact's personal identity (e.g. passport, photo ID card or driving licence) and position within the organisation.

If satisfactory evidence of identity is not obtained at the outset then the business relationship (or one-off transaction) should not proceed any further and you should report the matter immediately to the MLRO.

For further information on the customer due diligence requirements visit the money laundering regulations guidance on the GOV.UK website and go to the following location: <https://www.gov.uk/guidance/money-laundering-regulations-your-responsibilities>

9.0 Other Customer Checks

Staff dealing with transactions which involve income should be suspicious of any unusual payments received from private individuals – e.g. in respect of council tax, benefit overpayments, sundry debtors, etc. In particular, the following practices may indicate potential money laundering:

- large payments of cash
- substantial overpayments of debts followed by a request for a refund (especially if this happens more than once)
- substantial overpayments by credit or debit card where a cheque refund is requested (also a potential indication of credit card fraud)

Suggested checks include:

- Assess whether the size/method of payment seems reasonable given the nature and value of the debt
- Check whether substantial overpayments are due to a genuine mistake – e.g. the customer used the wrong payee details, accidentally made a duplicate payment or entered too many zeros on an Internet payment. (This excuse becomes less credible if the customer then repeats this behaviour once the matter is corrected)
- Consider whether the customer requesting a refund is attempting to introduce intermediaries to either protect their identity or hide their involvement. (The safest policy is to always refund the originating card/bank account).

Preferably, all of the above checks should be carried out based on information already received rather than through further contact with the customer. Care must be taken to avoid “tipping off” the customer.

If you are still suspicious about the transaction after carrying out the above checks, you should report the matter immediately to the MLRO.

10.0 Record Keeping

All disclosure reports referred to the MLRO and reports subsequently made to NCA must be retained by the MLRO in a confidential file kept securely for that purpose, for a minimum of five years.

Where operational, evidence of customer due diligence checks and details of all relevant business transactions carried out for those customers must also be kept for at least five years.

11.0 Guidance and Training

In support of this policy, the Council will:

- make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the Anti-Money Laundering legislation; and
- provide targeted training to those officers considered most likely to encounter money laundering.

Note - It is the duty of officers to report all suspicious transactions whether they have received their training or not.

12.0 Conclusion

Given the nature of the Council’s services and for whom these services are provided, instances of suspected money laundering are unlikely to arise very often, if at all. However, we must be mindful of the legislative requirements, as failure to comply may render individuals liable to prosecution.

The Council believes that this policy represents a proportionate response to the level of risk faced.

Money Laundering Activity – Disclosure Form (Part A)

To report suspected money laundering, complete this form and pass it to the Money Laundering Officer (MLRO)

From:	Name:	
	Job Title:	
	Service:	
	Tel/Ext No:	

Date by which a response is required:

Details of suspected offence:

Name(s) and address(es) of person(s)/company/public body involved and nature of business if a company/public body:

Nature, value and timing of activity involved (e.g. <i>what, when, where, how</i>):

(Continue on a separate sheet if necessary)

Nature of suspicions regarding such activity:
<p><i>(Continue on a separate sheet if necessary)</i></p>

Has any investigation been undertaken (as far as you are aware)? <i>(Delete as appropriate)</i>	Yes / No
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If yes, please include details below:

Have you discussed your suspicions with anyone else? <i>(Delete as appropriate)</i>	Yes / No
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If yes, please specify below, explaining why such discussion was necessary:

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 may be involved in the suspected money laundering activity described. To do so may constitute a “tipping off” offence under the Proceeds of Crime Act 2002 which carries a maximum penalty of five years imprisonment.

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Money Laundering Activity – Disclosure Form (Part B)

This part of the form must be completed by the MLRO

SECTION 1 – ACKNOWLEDGEMENT AND REVIEW

Date report received by MLRO:	
Date receipt acknowledged:	

Consideration of disclosure to the National Crime Agency (NCA):

Action taken to review the report:

Outcome of consideration of disclosure:

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a Suspicious Activity Report (SAR) be made to the NCA? <i>(Delete as appropriate)</i>	Yes / No
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If yes, please complete Section 2. If no, go straight to Section 3.

SECTION 2 – DETAILS OF LIAISON WITH THE NCA

Date of Report:		Reference Number:	
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Notice Period:	From:	To:
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Note – the NCA has 7 working days starting from the first working day after the consent request is made to refuse continuation of the activity. If no refusal has been received, consent is deemed to have been given and the activity may continue.

Moratorium Period:	From:	To:
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Note – if consent is refused during the notice period, a further 31 days starting with the day on which consent is refused must elapse before the activity may continue. In the absence of any action to restrain the activity by law enforcement during the moratorium period the activity may continue.

Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? <i>(Delete as appropriate)</i>	Yes / No
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Record of consent given by the NCA

Date:		Time:	
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SECTION 3 – NON-DISCLOSURE

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out below the reason(s) for non-disclosure:
Note – include details of any discussions with other officers (e.g. Legal Services) together with their name(s) and the advice given.

SECTION 4 – RECORD OF CONSENT GIVEN BY THE MLRO

Consent given by the MLRO for the employee:	Date:
To proceed with the transaction	
For any prohibited act transactions to proceed	

SECTION 5 – ANY OTHER RELEVANT INFORMATION

Signed: Dated:

Print Name:

THIS REPORT MUST BE RETAINED FOR AT LEAST FIVE YEARS