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ANTI-MONEY LAUNDERING POLICY

1. What is money laundering?

- 1.1 Money laundering is the term used for several offences involving the proceeds of crime, or terrorism. This includes possessing, or in any way dealing with, or concealing, or converting the proceeds of any crime, as well as funds likely to be used for terrorism and the proceeds of terrorism. Money laundering is used to describe the activities of criminals who convert the proceeds of crime into legitimate activities, with the intention of hiding the true sources of their income.
- 1.2 In relation to the Council, money laundering would be the attempt to do legitimate business with the Council e.g. buying/leasing property, or paying for goods and services using assets or money derived from the proceeds of crime or terrorism.
- 1.3 This policy applies to all employees and councillors and sets out the legal requirements relating to money laundering, including how to respond if anyone suspects that money to pay for property, goods, or services comes from criminal, or terrorist activities.
- 1.4 As money laundering seeks to legitimise cash or property from criminal or terrorist activities, it often involves the following three steps: -
- **Placement** – cash is introduced into the financial system by some means. For example, depositing the cash into bank accounts, exchanging currency or simply changing small notes for larger notes (or vice versa).
 - **Layering** – a financial transaction to camouflage the illegal source; transfer between accounts including offshore, offering loans, investments and complex financial transactions.
 - **Integration** – acquisition of financial wealth from the transaction of the illicit funds. For example, buying residential or commercial property, businesses and luxury goods.

2. Laws covering money laundering

- 2.1 Legislation has shifted the burden for identifying acts of money laundering from police and government agencies to organisations and their employees. The principal legislation and regulation relating to money laundering are: the Proceeds of Crime Act 2002 (POCA), the Terrorism Act 2000 (TA), and the Money Laundering, Terrorist Financing and Transfer of Funds (information on the Payer) Regulations 2017.
- 2.2 There are two main types of offences, which may be committed:
- Money laundering offences; and
 - Failure to report money-laundering offences.

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2.3 The main types of money laundering offences are:

- **Concealing** – knowing or suspecting a case of money laundering, but concealing or disguising its existence
- **Arranging** – becoming involved in an arrangement to launder money, or assisting in money laundering
- **Acquisition**, use or possession – benefiting from money laundering by acquiring, using or possessing the property concerned.

2.4 Examples include :-

- acquiring, using, or possessing criminal property;
- handling the proceeds of crimes, such as theft, fraud and tax evasion;
- investing the proceeds of crime in other financial products;
- being knowingly involved, in any way, with criminal or terrorist property;
- entering into arrangements to facilitate laundering criminal or terrorist property;
- transferring criminal property;
- failing to report a suspicion that money laundering offences are taking place; and
- 'tipping off' someone who is, or is suspected of being involved in money laundering, in such a way as to reduce the likelihood of being investigated, or prejudicing an investigation.

2.5 The Terrorism Act 2000 made it an offence of money laundering to become 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.

2.6 Depending on the severity of the suspected offence, the Magistrates' Court can issue fines of up to £5,000, or sentences of up to 6 months in prison (or both), and, in the Crown Court, fines are unlimited, and sentences of up to 14 years may be handed down.

3. The obligations of the Council

3.1 The main requirements of the legislation are:

- To appoint a Money Laundering Reporting Officer (MLRO);
- Maintain client identification procedures in certain circumstances;
- Implement a procedure to enable suspicions to be reported; and
- Maintain record keeping procedures.

3.2 The Council's MLRO is the Assistant Director of Corporate Governance. In the absence of the designated MLRO, the Head of Audit and Risk Management should be contacted.

OFFICIAL

3.3 The Council has developed formal client identification procedures, which must be followed when Council land or property is being sold. These require individuals (and companies) to provide proof of identity and current address. If satisfactory evidence is not obtained, the transaction must not be progressed and guidance should be sought from the MLRO. All records maintained in respect of suspected money laundering activity must comply with the Data Protection Act.

4. Examples of potential money laundering situations

4.1 It is not possible to provide a definitive list of possible situations involving money laundering; or how to decide whether to report suspicions to the MLRO. However, the following are risk factors, which either may, individually or cumulatively, suggest possible money laundering activity:

- Payment of a substantial sum of money in cash (over £10,000), either in a single transaction, or a number of smaller transactions which total more than £10,000;
- Payment of cash sums where cash is not the usual means of payment;
- A new customer, or use of a new/shell company, with no financial history;
- A customer who refuses to provide requested information without a reasonable explanation;
- Concerns about the honesty, integrity, location, or identity of a customer;
- Unnecessarily complex transactions e.g. routing or receipt of funds from third parties, or through third party accounts;
- Involvement of an unconnected third party without any reasonable 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 involving a higher risk country, or tax haven;
- The cancellation, or reversal, of a previous transaction;
- Requests for the release of customer account details, other than in the normal course of business;
- Transactions at substantially above or below current market values;
- Poor business or financial records;
- A similar previous transaction (completed or requested) from the same customer;
- An inability to trace the customer, or organisation;
- Individuals or companies that are insolvent but have funds.

5. Reporting procedure

5.1 If you have any questions or doubts about an individual, company, or transaction that you have been dealing with, then it is important to get advice from the MLRO, or Head of Audit and Risk Management as soon as possible – **do not delay reporting your concerns, as this may make you subject to criminal prosecution.**

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5.2 Your report to the MLRO should include as much details as possible, including:

- Full details of the people involved e.g. name, address, company name, directorships, contact details etc;
- Full details of their (and your) involvement;
- The type(s) of money laundering activity suspected;
- The date(s) of the suspected money laundering activity, including whether the transactions have happened, are ongoing, or are imminent;
- Where they took place;
- How they were undertaken (cash payment, bank transfer etc);
- The (likely) amount of money or assets involved;
- Why, exactly, you are suspicious.

5.3 Your report should also provide the MLRO with copies of any related supporting documentation. If you are acting in a legal capacity and consider that legal professional privilege may apply to the information, you should set this out in the report to the MLRO and why the information is legally privileged. The MLRO will determine whether the information should be exempt from any reports to the National Crime Agency (NCA).

5.4 Once you have reported your concerns to the MLRO, you must not undertake any further enquiries into the matter. The MLRO will refer the matter on to the NCA, if required, in order for them to undertake further investigation. No further action must be taken in relation to the transaction(s) until either the MLRO, or NCA, has given their consent in writing.

5.5 You should not voice any suspicions to the person(s) who you suspect of money laundering; or make any reference on IT systems, or client/hard copy files that you have reported your concerns to the MLRO. If an individual requests access to information, any notes will need to be disclosed, which may tip them off and may make you liable for prosecution.

5.6 A record will be maintained, including details of the customer due diligence, which will be kept for five years after the end of the business relationship; together with a record of the transactions also kept for five years. Guidance on performing the required due diligence checks can be obtained from the Head of Audit and Risk Management.

6. Review of disclosures by the MLRO

6.1 When the MLRO receives a report of suspected money laundering, they will review the information and any other relevant information, including:

- Reviewing any other transactions patterns and volumes;
- The length of any business relationship involved;
- The number of any one-off transactions and any linked one-off transactions;
- Any identification evidence held.

OFFICIAL

- 6.2 The MLRO will complete their review, which may include speaking to the person who made the referral, in order to determine whether there is sufficient evidence of actual/suspected money laundering and whether there are reasonable grounds to know (or suspect) that this is the case. The MLRO will then determine whether the NCA needs to be involved and their consent obtained for a transaction to proceed. In these circumstances, the transaction must not proceed until the NCA consent has been formally received (or if no consent has been received from the NCA after 7 working days).
- 6.3 If the MLRO concludes that there are no reasonable grounds to suspect money laundering, they will record their decision on the report and give their consent to proceed with the transaction.
- 6.4 In cases where legal professional privilege may apply, the MLRO will liaise with the Council's s151 Officer to decide whether there is a reasonable reason for not reporting the matter to the NCA.

7. Additional requirements for Finance and Legal employees

- 7.1 In addition to the reporting procedure in Section 5 above, employees providing certain finance and legal services must also comply with 'due diligence' requirements:
- Simplified due diligence.** Required when there is low risk of money laundering e.g. new business with a company; when checks on company and director registration details would represent sufficient due diligence.
- Enhanced due diligence.** Required when there is a higher risk of money laundering e.g. remote transactions where the customer is not present to be identified would require additional information and documents to be provided.

If satisfactory evidence cannot be provided, then the transaction cannot proceed.

- 7.2 Customer identification processes must be undertaken when the Council:
- Forms a business partnership with a customer;
 - Undertakes a one-off transaction relating to property or debt of more than £10,000;
 - Undertakes a series of linked transactions involving total payment of more than £10,000;
 - Knows, or suspects, that a transaction or a linked series of transactions involves money laundering.
- 7.3 Customer identification must be completed before any business is undertaken with the individual in relation to accountancy, procurement, audit and legal services with a financial or real estate transaction. In order to complete customer identification the following processes should be undertaken:
- Identify the person who wants to form the business relationship or complete the transaction;
 - Verify their identity using independent sources of information;

OFFICIAL

- Identify who benefits from the transaction;
- Monitor transactions to make sure that they are consistent with what is understood about the individual or country;
- Understand the source of their funds;
- Ensure there is a logical reason why they would want to do business with the Council.

8. Training

8.1 The MLRO and Head of Audit and Risk Management will ensure that training on the law relating to money laundering and the Council's procedures is provided to all relevant employees on a regular and ongoing basis.

9. Monitoring

9.1 The Assistant Director of Corporate Governance (the Council's Monitoring Officer), is responsible for the maintenance and operation of this policy. The Assistant Director of Corporate Governance and Head of Audit and Risk Management will liaise with the Chief People Officer when the policy is subject to review in order to ensure all relevant employment requirements are taken into account.