

OFFICIAL

ANTI-MONEY LAUNDERING & COUNTER TERRORIST FINANCING POLICY

1. Legislation

- 1.1 The Proceeds of Crime Act 2002 and the Terrorism Act 2000, together with the Bribery Act 2010, Money Laundering and Terrorist Financing Regulations 2022, Terrorist Financing and Transfer of Funds (information on the Payer) Regulations 2017 (the as amended in 2022 and 2023) place obligations on the Council and its staff to establish internal procedures to prevent the use of services for money laundering or terrorist financing.
- 1.2 Whilst Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2022 as we don't carry out regulated activities, it is prudent and responsible practice for local authorities to comply with the underlying spirit of the legislation and to have in place appropriate and proportionate anti-money laundering safeguards.
- 1.3 Proceeds of Crime Act 2002 (POCA) states that money laundering offences are:
 - Concealing, disguising, converting, transferring, or removing from the UK any 'criminal property'
 - 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
 - Acquiring, using, or possessing 'criminal property'. It is also an offence to fail to disclose knowledge or suspicion of money laundering where you acquired such knowledge or suspicion in the course of your work.
- 1.4 There are further offences of tipping off and prejudicing an investigation. Criminal property can apply to anything of value that is the proceeds of crime, including cash, savings, vehicles, investment, land, and property. Consequently, there is the potential for any member of staff to commit an offence if they suspect money laundering and either become involved with it in some way and/or do nothing. It is extremely important that relevant staff are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation.

2. Scope of Policy

- 2.1 This Policy will apply to all Members and Officers of the Council. It aims to maintain the Council's high ethical standards by seeking to prevent criminal activity through money laundering. This policy forms part of the Council's wider financial governance framework along with the Anti-Fraud, Corruption and Bribery Policy. As with all policies failure by a member of staff to comply with the procedures set out which are appended to this Policy may lead to management considering disciplinary action being taken against the employee.

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3. Money Laundering

- 3.1 Money laundering is a process which criminals employ to make it appear the money they have obtained fraudulently or by criminal means is legitimate.
- 3.2 The three defined stages of money laundering are:
- **Placement:** represents the initial entry of the proceeds of crime into the financial system. Generally, this stage serves two purposes: it relieves the criminal of holding large amounts of cash, and it places the money into the legitimate financial system.
 - **Layering:** a complex web of transactions to move money through the financial system. The primary purpose is to separate the illicit money from its source. This is done by the sophisticated layering of financial transactions that obscure the audit trail and sever the link with the original crime.
 - **Integration:** money is returned to the criminal from what seem to be legitimate sources. Having been placed initially as cash and layered through several financial transactions, the criminal proceeds are now fully integrated into the financial system and can be used for any purpose.

4. Terrorist Financing

- 4.1 Financing terrorism is the act of providing financial support, funded from either legitimate or illegitimate source, to terrorists or terrorist organisations to enable them to carry out terrorist acts or will benefit any terrorist or terrorist organisation.
- 4.2 While most of the funds originate from criminal activities, they may also be derived from legitimate sources, for example, through salaries, revenues generated from legitimate business or the use of non-profit organisations to raise funds through donations.
- 4.3 Despite there being separate legislation to adhere to, the threats to the Council are similar to those relating to Money Laundering, both areas would involve the attempt to do legitimate business with the Council e.g. through the buying/leasing property, or paying for goods and services therefore our responses to both aligns as outlined below.

5. Council's response

- 5.1 To ensure adherence to this legislation we have:
- Nominated a Money Laundering Reporting Officer (MLRO);
 - Made Training available to officers;

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- Included this threat in fraud risk assessments;
 - Services undertake client identification procedures, where required;
 - Implement a procedure to enable suspicions to be reported, appropriate disclosures to be made and adequate records to be held.
- 5.2 The Council's MLRO is the Head of Audit and Risk Management or in their absence reports should be made to the Deputy Head of Audit & Risk Management.
- 5.3 Mandatory E learning is part of the organisational development suite of courses available to officers and training needs outside of that are considered as part of bi-annual risk assessment and 'my conversations'.
- 5.4 Some examples of higher risk factors in transitions identified include:
- 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;
 - Transactions at substantially above or below current market values;
 - An inability to trace the customer, or organisation;
 - Individuals or companies that are insolvent but have funds.
- 5.5 The Council's higher risk activities include the purchase or sale of property, so client identification procedures are embedded; our relationships with suppliers of goods and services so again identification procedures are in place as part of the procurement rules and procedures; and any process where payments (overpayments) can be made on an account i.e. rent or other property related transactions, council tax, business rates etc to mitigate this and other risks refunds are subject to senior management approval and money laundering risk is considered.

6. Officer Responsibilities and Reporting Procedure

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6.1 Records must 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.

6.2 There is an enhanced requirement on certain Finance and Legal officers who 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.

6.3 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.

6.4 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;
- 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.

OFFICIAL

- 6.5 If you feel you require support or training with regard this risk area or to ensure compliance with the policy this should be raised with your Director, the Head of Audit & Risk or the Director of Legal and Governance immediately.
- 6.6 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 as soon as possible – **do not delay reporting your concerns, as this may make you subject to criminal prosecution.**
- 6.7 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.
- 6.8 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). On reporting you should cease investigating and not discuss suspicions with any third party as this could be seen as tipping off see 1.4.

7 Responsibilities and disclosures by the MLRO

- 7.1 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.
- 7.2 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

OFFICIAL

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 'appropriate 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).

- 7.3 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.
- 7.4 In cases where legal professional privilege may apply, the MLRO will liaise with the Director of Legal and Governance and the Council's s151 Officer to decide whether there is a reasonable reason for not reporting the matter to the NCA.

8. Monitoring

- 8.1 The Council's Monitoring Officer, the Director of Legal and Governance, is responsible for the maintenance and operation of this policy.