



Haringey Council

Agenda item:

[No.]

Audit Committee

On 25 March 2010

Report Title: **Anti-money laundering regulations and Council policy**

Report authorised by: **Chief Financial Officer**

Report of and Contact Officer: Anne Woods, Head of Audit and Risk Management

Tel: 020 8489 5973

Email: anne.woods@haringey.gov.uk

Wards(s) affected: **All**

Report for: **Non-key decision**

1. Purpose of the report

1.1 To advise the Audit Committee of the updated Corporate Anti-money laundering policy.

2. State link(s) with Council Plan Priorities and actions and/or other Strategies:

2.1 Audit and Risk Management contribute to the Council priority to deliver excellent, customer focused, cost effective services by ensuring that the Council fully complies with anti-money laundering regulations where appropriate, to reduce risks and improve controls.

3. Recommendations

- 3.1 That the Audit Committee notes the requirements of the various regulations on local authorities and that the Council has complied with these to date.
- 3.2 That the Audit Committee approves the updated Corporate Anti-money laundering policy.
- 3.3 That the Audit Committee approves the inclusion of the policy as an appendix to the Council's existing corporate anti-fraud strategy to ensure that all elements of fraud policy and strategy are held together and allow it to be publicised more effectively.

4. Reason for recommendation(s)

4.1 The Audit Committee is responsible for Anti-fraud and Corruption arrangements as part of its Terms of Reference. In order to provide assurance that the corporate anti-money laundering policy is consistent with relevant professional guidance and other statutory and best practice requirements, it is reviewed on a regular basis, with approval for the final anti-money laundering policy resting with the Audit Committee.

5. Other options considered

5.1 Not applicable

6. Summary

6.1 The Council needs to ensure that there are appropriate arrangements and processes in place for the monitoring and reporting of any instances of suspected money laundering operations. The Council's corporate Anti-money laundering policy form part of the assurances to satisfy the relevant requirements.

7. Head of Legal Services Comments

7.1 The Head of Legal Services has been consulted in the preparation of this report, and notes that the processes and procedures adopted all follow published best practice guidance. Accordingly, there are no direct legal implications arising out of the recommendations in the report.

8. Chief Financial Officer Comments

8.1 The Chief Financial Officer notes the recommendations and agrees that the proposed approach to the anti-money laundering regulations should meet the Council's obligations and minimise the risk of this type of activity occurring within the organisation. It also ensures that staff are aware of their responsibility and who they should contact should they suspect money laundering transactions are taking place.

9. Head of Procurement Comments

9.1 Not applicable

10. Equalities and Community Cohesion Comments

10.1 This report deals with how the Council deals with suspected instances of money laundering across all areas of the council, which have an impact on various parts of the community. Improvements in managing risks and controls and reducing the opportunity for money laundering will therefore improve services the Council provides to all sections of the community.

11. Consultation

11.1 No external consultation was required or undertaken in the production of this report. Consultation has been undertaken with relevant departments to ensure that all

corporate, statutory and best practice requirements are incorporated into the corporate Anti-money laundering policy.

12. Service Financial Comments

12.1 There are no direct financial implications arising from this report. Investigations into allegations of suspected money laundering and reporting these to relevant authorities are undertaken using existing available resources within Internal Audit and relevant service departments where applicable. The costs are contained within revenue budgets which are monitored on a monthly basis.

13. Use of appendices

13.1 Appendix A – Anti-money laundering policy

14. Local Government (Access to Information) Act 1985

14.1 List of background documents. The following documents were used in production of this report:

- Money Laundering Regulations 2007
- CIPFA guidance 2009 – Combating financial crime, further guidance on anti-money laundering for public service organisations

15. Background

- 15.1 As part of the Chartered Institute of Public Finance and Accountancy's (CIPFA) 2006 Code of Practice, and the requirements of the Council's Whistle-blowing policy, Haringey Council needs to ensure that there are appropriate processes in place for the reporting and investigation of allegations of fraud and corruption.
- 15.2 The Comprehensive Area Assessment (CAA) includes the requirements to have appropriate arrangements in place which are designed to promote and ensure probity. It is therefore important to ensure that the Council can demonstrate compliance with the CAA and best practice requirements.
- 15.3 The Council responded to the Money Laundering Regulations 2007 by updating its Money Laundering procedure and guidance, which was written in conjunction with relevant Proceeds of Crime and Data Protection guidance.
- 15.4 Following the introduction of the Money Laundering Regulations 2007, CIPFA produced further guidance in 2009 on Anti-money laundering for Public Service Organisations. Therefore, it is now considered an opportune time to review the Council's existing policy and ensure that it complies fully with the 2007 Regulations and CIPFA's best practice guidance

16. Money Laundering Regulations 2007

- 16.1 The Money Laundering Regulations 2007 implemented the main preventative measure of the Third Directive, namely requiring risk based customer due diligence measures.

16.2 The Third Directive and the Money Laundering Regulations 2007 apply to a defined set of relevant financial services. Most of the Council's business does not fall within the classification of "relevant" financial services. It is mainly those services involving accountancy, audit, legal, and property transactions which could be carrying out relevant business. The following are examples of the type of transactions identified above:

- treasury management in accepting deposits/investments;
- legal services' involvement with financial or property transactions;
- collection or refunding of money from the council's debtors;
- loans and mortgage deals;
- formation and management of companies or trusts; and,
- dealing in transactions involving a total cash payment in excess of £10,000.

17. CIPFA 2009 Guidance on combating financial crime

16.3 CIPFA's guidance has reviewed the 2007 Money Laundering Regulations, which specify a list of 'relevant persons' to whom the regulations apply (Regulation 3 of the 2007 Regulations). Public authorities are not included on the list of relevant persons, therefore CIPFA guidance is that public authorities are not subject to the requirements of the 2007 Regulations.

16.4 However, an exception exists under Regulation 49(1) of the 2007 Regulations, which does place certain obligations on specific public authorities. The regulations states that public authorities must, if they know or suspect, or have reasonable grounds for knowing or suspecting, that a person has engaged in money laundering or terrorist financing, as soon as reasonably practicable inform the Serious Organised Crime Agency (SOCA).

16.5 In response to the 2007 Regulations, CIPFA's guidance states that there is substantial reputational risk for an authority which does not have policies and procedures in place to deal with instances of money laundering. CIPFA recognises that the vast majority of local authorities' business activities fall outside the scope of the 2007 Regulations, but maintains that Councils should be vigilant in this area to allow for any instances of money laundering to be identified and reported appropriately.

16.6 CIPFA recommends, as a minimum that local authorities:

- Make those staff most likely to be exposed to or suspicious of terrorist financing or money laundering aware of any requirements placed on the authority, its staff and on them as individuals;
- Provide targeted training to those staff considered to be the most likely to encounter the financing of terrorism and money laundering;
- To make arrangements for a nominated officer to receive and manage the concerns of staff, to make internal enquiries, to advise staff who feel they should make a report, and to co-ordinate suspicious activity reports to the SOCA; and
- To establish appropriate internal procedures which are both proportionate and cost effective.

17. Haringey's approach and policy

- 17.1 Haringey's approach to date has been to put in place arrangements within the Council that comply with the regulations and reflect good practice. In this way the Council is seen to be acting prudently and to the proper professional standards that certain officers will need to follow. In respect of legal issues, the Law Society requires the Council to have anti-money laundering policies and guidance in place and to complete regular returns in respect of money laundering. In respect of financial issues, the 2009 CIPFA guidance on combating financial is the key publication.
- 17.2 The Money Laundering Regulations 2007, for the first time, required firms to vary identification and monitoring of their customer on a risk sensitive basis. Firms are allowed to reduce the level of customer identification in specified lower risk situations, for example, dealing with public bodies.
- 17.3 The Council's policy and procedures relating to money laundering includes a section on due diligence (see appendix A). In most cases, the business undertaken will be where the client is another public or statutory body, and therefore the risk assessment indicates that no further due diligence about the status of the client is needed.
- 17.4 However, for other third party clients or politically exposed persons, there needs to be formal and recorded due diligence checks. In these rare circumstances, guidance on performing the due diligence checks will be provided by the Head of Audit and Risk Management, in their role as the Council's Money Laundering Reporting Officer, in consultation with relevant officers from legal and corporate finance where appropriate.
- 17.5 Therefore, a record must be maintained, including details of the customer due diligence, which needs to be kept for five years after the end of the business relationship and records of transactions, which also need to be kept for five years.
- 17.6 The Council's policy has been circulated to all relevant staff and training has been provided to those staff who are most likely to deal with the transactions detailed in paragraph 16.2. It is recommended that the Council's existing policy is incorporated into the corporate anti-fraud policy and strategy to ensure all elements of fraud and corruption are dealt with effectively and appropriately. These procedures will be made available on the Council's intranet site and regular reminders will be provided to all relevant staff.
- 17.7 In addition, as part of the Council's annual internal audit programme, testing of the key financial systems includes checks in relation to money laundering to ensure that risks are being appropriately managed.
- 17.8 Although local authorities are unlikely to be a prime target for money laundering, the size and scope of services is such that it is not possible to discount entirely the risks surrounding money laundering. The Council's approach is designed to mitigate and minimise these risks.

PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING POLICY AND PROCEDURES

1. What is money laundering?

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, as well as the proceeds of terrorism. Money laundering is generally used to describe the activities of organised criminals converting the proceeds of crime into legitimate activities, with the intention of hiding their true sources of income.

The current Money Laundering legislation covers all proceeds of crime, both money and property, regardless of how small the value. In reality, it involves a suspicion that someone is benefiting financially from dishonest activities. Therefore, the money laundering aspect would be the attempt to do legitimate business with the Council using assets and/or monies derived from the proceeds of crime or terrorism.

This guidance sets out the legal and regulatory requirements relating to money laundering, as they affect both the Council and you personally.

2. What laws exist to control money laundering?

In recent years, new laws have been passed which significantly shift 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 Regulations 2007.

There are three primary offences to take account of:

- **'concealing'** is where someone knows, or suspects, a case of money laundering, but conceals or disguises its existence;
- **'arranging'** is where someone involves himself or herself in an arrangement to assist money laundering; and,
- **'acquisition', 'use', or 'possession'** is where someone seeks to benefit from money laundering by acquiring, using, or possessing the property concerned.

There are also two third party offences to take account of:

- **'failing to disclose a primary offence'** is where someone becomes aware or suspects money laundering, but fails to take action in reporting it; and,
- **'tipping off'** is where someone informs a person 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.

These money laundering offences may be committed by the Council itself, or by any of the Members and employees (including permanent, agency and temporary staff) working within it.

PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING POLICY AND PROCEDURES

3. What is the Council's response to money laundering?

Local authorities have a responsibility to ensure the proper conduct of public business. The consequences of the Council or any of its Members or employees facing prosecution under the money laundering legislation would be very serious and reflect poorly not only on the Council, but on the public service as a whole.

Although local authorities are unlikely to be a prime target for money laundering, the size and scope of services is such that it is not possible to discount entirely the risks surrounding money laundering. In order to mitigate this risk, this policy and guidance, including reporting arrangements, has been produced.

Management should ensure that arrangements are in place to prevent the Council and its Members and employees being exposed to money laundering in those services where there is a potential risk. They should also ensure that those Members and employees who may become exposed to money laundering are made fully aware of this guidance and are suitably trained.

It should be noted that the professional bodies of some employees (e.g. accountants and solicitors) have issued guidance on personal obligations and responsibilities relating to money laundering, and those employees should familiarise themselves with that guidance.

4. What are the implications for staff who become involved?

Examples of possible situations involving exposure to money laundering are found in the appendix to this document. However, it cannot be stressed too strongly that it is every Member and employee's responsibility to be vigilant, and to be aware of the requirement to report actual or suspected cases of money laundering.

While it is unlikely that a Member or employee would commit one of the three primary offences, a failure to disclose a suspicion of money laundering is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion.

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 out.

PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING POLICY AND PROCEDURES

5. How do we ensure 'due diligence'?

The Money Laundering Regulations 2007 require the identification and monitoring of clients on a risk sensitive basis. Where relevant business is undertaken, the clients need to be subject to some form of risk based due diligence. Most of the Council's business is not defined in the regulations as being relevant; it is mainly those services involving accountancy, audit, legal, and property transactions which could be carrying out relevant business.

In most cases, the business undertaken will be where the client is another public or statutory body, and therefore the risk assessment indicates that no further due diligence about the status of the client is needed. However, for other third party clients or politically exposed persons (see attached appendix for definition) there needs to be formal and recorded due diligence checks.

A record will be maintained, by Corporate Finance, including details of the customer due diligence, which needs to be kept for five years after the end of the business relationship together with a record of the transactions also kept for five years. In these rare circumstances, guidance on performing the due diligence checks can be obtained from the Head of Audit and Risk Management.

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

If you have any questions or doubts about an individual, company, or transaction that you have been dealing with, then it is important to seek advice from the Head of Audit and Risk Management. This approach means that the information can be considered at the time the transaction or the business takes place.

Section 2 of this guidance states that failure to take action or to report activities is an offence under the Regulations. However, failure to do so is only an offence if the suspicion relates, in the event, to an actual crime. Therefore, a common sense approach needs to be taken, in order to ensure that officers' time is not wasted.

The Council has nominated the Head of Audit and Risk Management within the Corporate Resources Directorate as the officer responsible for dealing with any suspicions of money laundering. You should therefore report any suspicious transactions or concerns to the Head of Audit and Risk Management in writing. The matter would then be discussed with you and a decision made whether to make a formal report to the Serious Organised Crime Agency.

PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING POLICY AND PROCEDURES

A. Examples of possible situations involving exposure to money laundering

1. There may be situations where funds come into the Council from an unfamiliar source. In particular, if the Council is forming a new business relationship, or is considering undertaking a significant one-off transaction, it would be prudent to identify fully the parties involved. This will be especially true if the parties concerned are not physically present, or may be acting for absent third parties.
2. Transactions involving the handling of the proceeds of asset disposals, e.g. land sales, can be especially vulnerable, and may demand further enquiry. Caution should be exercised in respect of:
 - unusual arrangements; offshore funds being used;
 - transactions involving a third party who is not known to the Council, or where the identity of a party is difficult to establish or is undisclosed;
 - where an intermediary is involved, or where the ultimate ownership of a company is hidden; and,
 - situations where a party is evasive as to the source of funds.
3. Members or employees having direct contact with the public or businesses may become suspicious where the nature of the goods or the amounts of the cash seems inconsistent with what might, in the circumstances, be regarded as normal.
4. Cashiers may be asked, in the normal course of their work, to accept payments in unusually amounts of cash for the settlement of debts. As a guide, sums in the region of £10,000 and above would be regarded as a sum of cash that should be reported.
5. Circumstances which might arouse particular suspicion are where cash is tendered which exceeds significantly the amount of the debt, or the debt is paid twice (or more) and the person or business requests subsequently a refund from the Council of the balance.

B. Politically Exposed Persons

The Regulations define politically exposed persons as a person “...*who is or has, at any time in the preceding year been entrusted with a prominent public function by a state other than the United Kingdom, a European Community institution or an international body*” or a family member or known close associate of such a person.