

ANTI-MONEY LAUNDERING POLICY

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.

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 money 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?

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 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 councillors and employees (including permanent, agency and consultancy resources) working within it.

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 councillors or employees, facing prosecution under the money laundering legislation would be very serious and reflect badly on the Council.

Although local authorities are unlikely to be a prime target for money laundering, the size and scope of services we provide means it is not possible to discount entirely the risks surrounding money laundering. In order to manage 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 councillors and employees being exposed to money laundering in those services where there is a potential risk. They should also ensure that those councillors 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 at the end of this document. However, it cannot be stressed too strongly that it is every councillor and employee's responsibility to be aware of the requirement to report actual or suspected cases of money laundering.

While it is unlikely that a councillor 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.

5. How do we ensure 'due diligence'?

The Money Laundering Regulations 2007 require the identification and monitoring of clients on a risk 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 definition below) 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 get 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 Head of Audit and Risk Management within the Corporate Governance service area is 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. The matter will then be reviewed with you; and a decision made whether to make a formal report to the Serious Organised Crime Agency.

7. Monitoring

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 Assistant Director of Human Resources when the policy is subject to review in order to ensure all relevant employment requirements are taken into account.

Examples of possible situations involving exposure to money laundering

1. There may be situations where funds come into the Council from an unfamiliar source. For example, if the Council is forming a new business relationship, or is considering undertaking a significant one-off transaction, it would be sensible to identify fully the parties involved, especially if the parties involved are not physically present, or are acting for absent third parties.
2. Transactions involving asset disposals e.g. land or property sales can be especially vulnerable. Further enquiries should be made in respect of:
 - unusual settlement 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 refuses to disclose the source of funds being used.
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 cash, seems inconsistent with what might be regarded as usual for the type of transaction.
4. Cashiers or employees may be asked, in the normal course of their work, to accept payments in unusually large 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. Situations which might also need further review are where an amount of cash is paid 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.

Politically Exposed Persons - definition

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.