

Anti-Money Laundering Policy and Procedure

Introduction

Money laundering is any process whereby funds derived from criminal activity are given the appearance of being legitimate. The Council must be alert to the possibility that attempts could be made to utilise funds obtained from criminal activity to pay for Council services.

The Council is committed to preventing money laundering by having anti-money laundering systems in place to establish the legitimacy of the sources of income.

This Anti-Money Laundering Policy makes it clear that it is extremely important that all employees are familiar with:

- the legal responsibilities;
- the criminal sanctions that may be imposed for breaches of the money laundering legislation;
- the need to be vigilant and take appropriate steps to reduce the opportunities for breaches of the Money Laundering Regulations;
- The key requirement to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.

Legal requirements

The Money Laundering Regulations 2007

These regulations set out detailed requirements for organisations to establish procedures to prevent its services being utilised for the purposes of money laundering.

While public authorities are not legally obliged to apply the provisions of the regulations as they do not fall under the term 'regulated activity'. Certain public authorities must, if they know or suspect or have reasonable grounds for knowing or suspecting, that a person is or has engaged in money laundering or terrorist financing, as soon as reasonably practical inform the National Crime Agency. The council is not one of the certain public authorities, but it will nonetheless inform the National Crime Agency in the same way.

Therefore, as a responsible public body the Council is employing policies and procedures which embrace the UK's anti-terrorist financing, and anti-money laundering requirements, with a particular focus on CIPFA's "Combatting Financial Crime – Further Guidance on Anti-money Laundering for Public Service Organisations".

The Terrorism Act 2000

This applies to all individuals and businesses in the UK and therefore all employees and councillors within the Council have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for terrorism or its laundering where it relates to information that comes to them in the course of their business or employment. The primary offence states a person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property by concealment, by removal from the jurisdiction, by transfer to nominees, or in any other way.

The Proceeds of Crime Act (POCA) 2002

This Act applies to all individuals and organisations and further defines the offences of money laundering and creates mechanisms for investigating and recovering the proceeds of crime as well as placing an obligation on the Council, employees and councillors to report suspected money laundering activities. The primary offences are:

- Section 327 - concealing, disguising, converting, transferring or removing criminal property from the UK;
- Section 328 - 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 329 - acquiring, using or possessing criminal property.

Which service areas may be affected by money laundering?

Examples of how the council may be exposed to money laundering include accepting large cash amounts, the involvement of third parties, the request of a large refund and property investment or purchases.

Also, the Money Laundering legislation defines 'regulated activity' as the provision 'by way of business' of advice about tax affairs, accounting services, treasury management, investment or other financial services, audit services, legal services, estate agency, services involving the formation, operation or arrangement of a company or trust or, dealing in goods wherever a transaction involves a payment of €15,000 (approx. £12,500) or more.

To help prevent money laundering, cash payments (including notes, coin or travellers cheques in any currency) above £5,000 will not be accepted for any Council service.

Establishing the identity of a new business relationship

As a responsible Council, we should be aware of any suspicions arising out of funds received from a source from which we are unfamiliar. If the Council forms a new business relationship (including a significant one-off transaction) care should be taken to ensure that the client is identifiable by making basic checks on their credentials, along with confirmation of where funds are coming from. This should not be an onerous task, but, we should ensure that we are clear about whom we are conducting business with. This will be especially important if the parties concerned are not physically present for identification purposes and to situations where someone may be acting for absent third parties. This is known as due diligence and must be carried out before any such business is entered into with the customer. If there is uncertainty whether such due diligence is required then advice must be obtained from the Money Laundering Reporting Officer.

Due diligence can be used to evidence a customer's identity by, for example:

- checking with the customer's website to confirm their business address
- conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors
- Conducting personal identity checks for example, requesting that the customer provide their current passport/driving licence, birth certificates

In certain circumstances enhanced customer due diligence may need to be carried out, for example, where:

- the customer has not been physically present for identification
- the customer is a politically exposed person

- there is a beneficial owner who is not the customer – a beneficial owner is any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

If it is believed that enhanced customer due diligence is required then the Money Laundering Reporting Officer should be consulted prior to carrying it out. Customer due diligence should be completed for all relevant new customers and for existing customers, during the life of a business relationship, proportionate to the risk of money laundering and terrorist funding.

Reporting suspected cases of Money Laundering

Where an employee or Councillor knows or suspects that money laundering activity is taking/has taken place, or becomes concerned that their involvement in a matter may amount to a prohibited act under sections 327 to 329 of POCA, they must disclose this without delay or as soon as reasonably practicable to the Money Laundering Reporting Officer. Failure to report such activity may render the employee subject to prosecution and/or disciplinary action in accordance with the Council's disciplinary policy. The procedure for disclosure is:

- to complete a 'Disclosure Report to the Money Laundering Reporting Officer Form' and to include as much detail as possible e.g. name, date of birth, address, company names, directorships, phone numbers, nature of the activity etc;

The Council has appointed the following employee as the Money Laundering Reporting Officer (MLRO):

Peter Farrow - Head of Audit Services

Tel: (01902) 554460

e-mail: peter.farrow@wolverhampton.gov.uk

In the absence of the MLRO listed above, the following employee is authorised to deputise:

Mark Wilkes – Client Lead Auditor

Tel: (01902) 554462

e-mail: mark.wilkes@wolverhampton.gov.uk

Further advice on money laundering matters can also be obtained from:

Mark Taylor – Director, Finance (S151 Officer)

Tel: (01902) 556609

e-mail: mark.taylor@wolverhampton.gov.uk

Kevin O'Keefe – Director of Governance/Monitoring Officer

Tel: (01902) 554910

e-mail: kevin.o'keefe@wolverhampton.gov.uk

Investigating and Reporting Money Laundering

How will the Money Laundering Reporting Officer investigate a disclosure?

The Money Laundering Reporting Officer will:

- acknowledge receipt of the disclosure report;
- assess the information provided to make a judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering activities and;
- prepare a Suspicious Activity Report (SAR) to the National Crime Agency (NCA), where appropriate;

- The employee or councillor must follow any directions given by the Money Laundering Reporting Officer
- The employee or councillor must cease all involvement in the transaction (not make any further enquiries into the matter themselves) unless or until consent is provided by the NCA.
- The employee or councillor must specify in the disclosure report if such consent is required to comply with any transaction deadlines.
- Any necessary investigation will be undertaken by the NCA. Employees and councillors will be required to co-operate with any subsequent money laundering investigation.
- At no time and under no circumstances should the employee or councillor voice any suspicions to the person(s) suspected of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the Money Laundering Reporting Officer.
- Where the Money Laundering Reporting Officer concludes that there are no reasonable grounds to suspect money laundering then they shall mark the disclosure report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.
- All in-house disclosure reports and NCA Suspicious Activity Reports will be retained for a minimum of five years after the business relationship ends or an occasional transaction is completed.

Record Keeping

Each area of the Council which conducts relevant business must maintain suitable records of any completed due diligence checks and details of relevant transactions must be maintained for at least five years. This provides an audit trail and evidence for any subsequent investigation into money laundering, for example, distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

Review of the Money Laundering Policy

The Money Laundering Policy will be reviewed on an annual basis by the Head of Audit Services to ensure that it remains up to date, fit for purpose and represents generally acceptable good practice.