

SAFE WELL PROSPEROUS CONNECTED

# Anti-Money Laundering Policy

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## 1. Introduction

1.1. This Policy explains what money laundering is and the legal and regulatory framework that is in place to govern it. It specifies the processes that the council has in place to reduce the risk of exposure to money laundering and to ensure that the council complies with those legal and regulatory requirements. The Policy forms part of the council's wider governance arrangements which ensure that the council is well managed and supports the delivery of its priorities.

1.2. The Policy applies to all of the council's activities and employees. Employees include but are not limited to those who are directly employed, agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

1.3. Directors and managers must ensure that all employees are aware of this policy and the wider Anti-Fraud and Corruption Strategy.

## 2. What is Money Laundering?

2.1. Money laundering is the process by which the proceeds of crime or terrorism are changed so that they appear to come from a legitimate source.

2.2. Money laundering activity may range from a single act, for example being in possession of the proceeds of one's own crime, to complex and sophisticated schemes involving multiple parties and multiple methods of handling and transferring criminal property as well as concealing it and entering into arrangements to assist others to do so. Council employees need to be alert to the risks of clients, their counterparties and others laundering money in any of its many forms.

2.3. The Proceeds of Crime Act 2002 defines the main money laundering offences as:

- Concealing, disguising, converting, transferring or removing criminal property from the UK;
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;

- Acquiring, using or possessing criminal property;
- Doing something that might prejudice an investigation e.g. falsifying a document;
- Failure to disclose one of the offences listed above where there are reasonable grounds for knowledge or suspicion;
- Tipping off a person(s) who is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

### **3. Legal implications**

3.1. The Terrorism Act 2000<sup>1</sup>, The Proceeds of Crime Act 2002 (POCA)<sup>2</sup>, and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017<sup>3</sup>, place obligations on the council and its employees with respect to suspected money laundering.

3.2. The council and its staff are subject to the full provisions of the Terrorism Act 2000 and may commit most of the principal offences under the Proceeds of Crime Act 2002 (the POCA).

3.3. Whilst Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2017 (the Regulations), guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

### **4. Individual obligations**

4.1. Any employee, member, contractor or partner may be caught by the money laundering offences identified in paragraph 2.3, either directly or if they suspect money laundering but do nothing about it. The maximum sentence on conviction is 14 years in prison.

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<sup>1</sup> As amended by the Anti-Terrorism, Crime and Security Act 2001, the Terrorism Act 2006 and the Proceeds of Crime Act 2002 (Amendment) Regulations 2007

<sup>2</sup> As amended by the Crime and Courts Act 2013 and the Serious Crime Act 2015

<sup>3</sup> As amended by The Money Laundering, Terrorist Financing (Amendment) Regulations 2019.

4.2. Therefore, individuals have a duty to follow the guidance in this policy and to report any suspicious activity to the Money Laundering Responsible Officer (MLRO). Appendix A provides practical advice on how to report suspicions.

4.3. Failure by an employee to comply with the procedures set out in this policy may lead to disciplinary action being taken against them in accordance with the council's Disciplinary Policy.

## 5. Council obligations

5.1. The 2017 Regulations apply to "relevant persons" acting in the course of business carried on by them in the UK. Not all of the council's business is relevant for the purposes of the Regulations.

5.2. Services provided by the council are not covered by the Regulations where the council are<sup>4</sup>:

- providing services to members of the public free of charge or for a fee to cover the cost of providing the service only;
- providing services as part of their statutory duties and charge a fee;
- funded by the Exchequer or council tax payers and not by the person(s) who receive the service;
- providing services only to other public authorities;
- providing services to a firm authorised by a public body to act on their behalf - for example a housing association.

This is because these activities are not undertaken by way of business.

5.3. However, some financial, company and property transactions that the council undertakes may be undertaken by way of business and therefore, the 2017 Regulations may apply.

5.4. To ensure compliance the council maintains appropriate procedures relating to the following:

- Reporting;
- Customer due diligence measures;

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<sup>4</sup> HRMC guidance updated 27.6.17 <https://www.gov.uk/guidance/money-laundering-regulations-who-needs-to-register>

- Record-keeping;
- Guidance and Training.

## **6. Reporting – The Money Laundering Responsible Officer (MLRO)**

6.1. The council has nominated an officer to receive disclosures about money laundering activity within the council. This is the Section 151 Officer (Chief Finance Officer). In the absence of the MLRO, the Head of Audit and Assurance is the authorised deputy.

6.2. Examples of potential areas where money laundering may occur and further details of how suspicions should be recorded and reported to the MLRO are included in the operational guidance in Appendix A of this policy.

6.3. The MLRO has responsibility for reporting (where necessary) suspicions to the National Crime Agency (NCA).

## **7. Customer due diligence measures**

7.1. Customer due diligence means that the council must know its clients and understand their businesses. This is so that the council is in a position to know if there is suspicious activity that should be reported. It is only by the council knowing its clients and their businesses that it can recognise abnormal and possibly suspicious activity.

7.2. Where council business may fall within the 2017 Regulations, the council is required to identify its customers and verify their identity on the basis of documents, data or information obtained from a reliable source. Where there is a beneficial owner who is not the customer then the council must identify that person and verify the identity and where the beneficial owner is a trust or similar then the council must understand the nature of the control structure of that trust. Finally the council must obtain information on the purpose and intended nature of the business relationship.

7.3. Where the council has been unable to identify the ultimate beneficial owner, it must take reasonable measures to verify the identity of the senior person that manages the company.

7.4. Before forming a business relationship with a limited company, LLP, or certain types of trusts, the council must check details in the Persons with Significant Interests filed with Companies House. They must report any material discrepancies between information on Companies House and information obtained as a result of their customer due diligence.

7.5. The Regulations also introduces the need for the Council to consider both customer and geographical risk factors in deciding what due diligence is appropriate. The new Regulations introduced a list of high risk jurisdictions which if involved in a transaction makes enhanced due diligence and additional risk assessment compulsory. Where relevant business is being conducted overseas, the MLRO should be contacted for further information on current high risk jurisdictions.

7.6. The checks described in the paragraph above must generally be undertaken by the Council before it establishes a business relationship or carries out an occasional transaction, or if it suspects money laundering or terrorist funding or doubts the accuracy of any information obtained for the purposes of identification or verification. However, the Council is not required to undertake these checks if its customer is another public authority, unless it suspects money laundering or terrorist funding.

7.7. The Council is also obliged to maintain ongoing monitoring of its business relationships which means it must scrutinise transactions throughout the course of the relationship to ensure that the transactions are consistent with the Council's knowledge of the customer and keep the information about the customer up-to-date.

7.8. Where the Council is not able to apply the customer due diligence measures set out above it must not carry out a transaction with or for a customer through a bank account, it must not establish a business relationship or carry out an occasional transaction with the customer, it must terminate any business relationship with the customer and consider whether to make a disclosure.

## **8. Enhanced customer due diligence**

8.1. It will in certain circumstances be necessary to undertake Enhanced Customer Due Diligence. This will be necessary where:

- the customer has not been physically present for identification purposes;  
or
- in any other situation which by its nature can present a higher risk of money laundering or terrorist financing.

8.2. Where this applies, the Council will need to take adequate measures to compensate for the higher risk. For example, this will mean ensuring that the

customer's identity is established by additional documents, data or information.

## 9. Record keeping

9.1. The information gathered by the Council as part of its customers due diligence obligations must be kept for a period of five years from either the completion of the transaction or the end of the business relationship. Each Service should nominate an officer who is to be responsible for the secure storage of these records where necessary.

9.2. The MLRO will retain all disclosure reports referred to them and reports made by them to the National Crime Agency (NCA) for a minimum of five years.

## 10. Guidance and Training

10.1. In support of this policy the Council will:

- Make all employees and members aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation;
- Provide advice and guidance through targeted training to those employees most likely to be exposed to or suspicious of money laundering situations;
- Provide written operational guidance to support the appropriate and timely referral of money laundering suspicions.

## 11. Monitoring and Review Process

11.1. This policy will be monitored and reviewed as required by the MRLO to ensure that it remains fit for purpose.

## 12. References

[The Council's Anti-Fraud and Corruption Strategy](#)

[The Terrorism Act 2000](#) (as amended)

[The Proceeds of Crime Act 2002](#) (as amended)

[The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (including [explanatory memorandum](#))

[The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019](#)

[HMRC – money laundering regulations](#)

NLC Anti-Money Laundering Policy v1.1 final

[2021 Anti-Money Laundering Guidance for the Accountancy Sector - CCAB](#)

**Appendix A – operational guidance**

**Section 1 Reporting suspicions of Money Laundering**

**Section 2 Applying the Money Laundering regulations**

## **Section 1 Reporting suspicions of Money Laundering**

### **Recognising suspicious activity that may be linked to Money Laundering**

It is impossible to give a definitive list of ways to spot money laundering but the following suggested areas which taken alone or with other factors, may increase the risk of potential money laundering:

- A new client;
- A secretive client e.g. refuses to provide requested information without a reasonable explanation;
- Concerns about the honesty, integrity, alleged association with criminality, or location of a client;
- Illogical third party transactions: unnecessary routing or receipting of funds from third parties or through third party accounts;
- Involvement of an unconnected third party without logical reason or explanation;
- Payment of substantial sums in cash or a large cash deposit (a single transaction or a series of linked transactions totalling 15,000 Euros or more). The Council expects large value payments to be made by other means, so any request to make such payments in cash should be treated as suspicious;
- Absence of obvious legitimate source of funds;
- Payment of monies then cancellation of transactions and request for return of funds;
- Over-payment of invoices with a subsequent request for a refund;
- Movement of funds overseas, particularly to a higher risk country or tax haven;
- Where, without reasonable explanation, the size, nature, and frequency of transaction or instructions (or the size, location of type of client) is out of line with normal expectations;
- Cancellation or reversal of an earlier transaction;

- Requests for release of client account details other than on the normal course of business;
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the client's needs are inconsistent with the use of such structures;
- Over complicated financial systems;
- Poor business records or internal accounting controls;
- A previous transaction for the same client that has been or should have been reported to the MLRO;
- Unusual property investment transactions if there is no linked substantive property transaction involved (surrogate banking);
- Property related transactions where funds are received for deposits or prior completion from an unexpected source or where instructions are given for the settlement of funds to be paid to an unexpected destination;
- More than one solicitor used in a sale or purchase or there is an unexplained or unusual geographical use of the solicitor in relation to property transactions.

### **What to do if money laundering activity is suspected?**

Where you know or suspect that money laundering activity is taking/has taken place, or you are concerned that your involvement in the matter may amount to a prohibited act under the legislation, you must disclose your suspicion or concern to the MLRO as soon as practicable; the disclosure must be made within hours rather than days or weeks of the information coming to your attention. The referral should be made on the form at Appendix B.

If in any doubt seek advice from the MRLO.

**You have a legal obligation to report any suspicion. Failure to do so may leave you liable to prosecution.**

The report must include as much detail as possible, for example:

- Full details of the people involved (including yourself, if relevant). For example, name, date of birth, address, company names, directorships, phone numbers (this list is not exhaustive);
- Full details of the nature of their/your involvement;

- The types of money laundering activity involved;
- The dates of such activities, including: whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets involved;
- Why, exactly, you are suspicious – the NCA will require full reasons;
- Any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the NCA, where appropriate;
- You should also enclose copies of any relevant supporting documentation.

Once you have reported the matter to the MLRO you must follow any directions given to you. You must not make any further enquiries into the matter yourself. All members of staff are required to cooperate with the MLRO and the authorities during any subsequent money laundering investigation.

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering; otherwise you may commit an offence.

### **MLRO actions**

On receipt of a report, the MLRO is required to determine if a disclosure is required to the NCA.

The MLRO will consider the report and any other available internal information thought to be relevant, For example:

- other transaction patterns and volume;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held; and

- undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required.

When the report and any other relevant information has been evaluated the MLRO will make a determination as to whether:

- there is evidence of actual money laundering taking place or
- there are reasonable grounds to suspect that is the case.

If the MLRO decides that there is evidence of money laundering or there are reasonable grounds to suspect money laundering offences may have been or could be committed, they will complete an online [Suspicious Activity Report](#) for disclosure to the NCA. They must also suspend any ongoing or imminent transaction(s) as authority from the NCA will be necessary to proceed.

If exceptionally, the MLRO suspects money laundering but has reasonable cause for non-disclosure, then the report must be noted accordingly. The MLRO must liaise with the legal services to decide whether there are reasonable grounds for not reporting the matter to the NCA and those reasons must be documented. Consent can then be given for any ongoing or imminent transactions to proceed.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then the report is marked accordingly and consent given for any ongoing or imminent transaction(s) to proceed.

Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

All disclosure reports referred to the MLRO and subsequent reports to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

## Section 2 Applying the Money Laundering regulations

### When to carry out Customer Due Diligence

The regulations regarding customer due diligence are complex, but there are some simple rules that will help you decide if it is necessary:

- Is the service you are providing a regulated activity?
- Is the Council charging for the service i.e. is it 'by way of business'?
- Is the Service being provided to a customer other than a UK public authority?

If the answer to all these questions is 'yes' then you must carry out customer due diligence before any business is undertaken for that customer.

### Regulated activity

The Regulations apply to "relevant persons" acting in the course of business carried on by them in the UK and identify "relevant persons" as:

- credit institutions;
- financial institutions;
- auditors, insolvency practitioners, external accountants and tax advisers;
- independent legal professionals;
- trust or company service providers;
- estate agents; and letting agents;
- high value dealers;
- casinos;
- art market participants;
- cryptoasset exchange providers;
- custodian wallet providers.

Although Local Authorities are not “relevant persons” for the purpose of the Regulations, certain activities undertaken by accountancy, audit and legal services may fall within the Regulations.

Regulated activity is defined as the provision ‘by way of business’ of advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; estate functions; services involving the formation, operation or arrangement of a company or trust or, dealing in goods wherever a transaction involves a cash payment of 15,000 Euros or more.

### **By way of business**

Most council activities are not ‘by way of business’ even if there is a charge for the service. If the service provided is part of our statutory duties, or provided to members of the public on a not for profit basis, then this is not captured by the Regulations.

Likewise, if services provided are funded by the council and not the service user they do not fall under the Regulations.

### **Services to UK public authorities**

Where services are provided to other UK public bodies (or 3<sup>rd</sup> parties authorised to act on their behalf) these services do not fall within the Regulations and customer due diligence is not necessary (unless there are grounds to suspect money laundering).

If you are unsure whether you need to carry out customer due diligence then you should contact the MLRO.

### **Identity checks**

Where you need to carry out customer due diligence then you must seek evidence of identity, 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 identification of any directors;
- Seeking evidence from the key contact of their personal identity, for example, their passport, and position within the organisation.

The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist

funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.

If at any time, you suspect that a client or customer for whom you are currently, or are planning to carry out a regulated activity, is carrying out money laundering or terrorist financing, or had lied about their identify then you must report this to the MLRO.

In certain circumstances enhanced customer due diligence must be carried out. For example, where:

- The customer has not been physically present for identification;
- The customer is a politically exposed person (A politically exposed person is an individual who at any time in the preceding year has held a prominent public function outside of the UK, an EU or international institution/body, their immediate family members or close associates);
- 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.

Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer's identity and/or the source of the funds to be used in the business transaction. If you believe that enhanced customer due diligence is required then you must consult the MLRO prior to carrying it out.

Customer due diligence records and details of the relevant transactions(s) for that client must be retained for at least 5 years after the end of the business relationship.

An electronic copy of every customer due diligence record must be sent to the MLRO to meet the requirements of the regulations and in case of inspection by the relevant supervising body.

**Appendix B – Referral to Money Laundering Responsible Officer form**

**MONEY LAUNDERING REPORTING OFFICER  
DISCLOSURE FORM**

|   |  |
|---|--|
| Date of disclosure                                  |  |
| Officer making the disclosure (including job title) |  |
| Contact details                                     |  |

|  |  |
|--|--|
| <b>Subject details</b>                       |  |
| Surname                                      |  |
| Forename(s)                                  |  |
| Date of Birth                                |  |
| <b>Or if the matter relates to a company</b> |  |
| Company name                                 |  |
| Address                                      |  |
| Company number (if known)                    |  |
| <b>Reason for disclosure</b>                 |  |
|  |  |