

Anti-Money Laundering Policy



Introduction

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into force in June 2017 and, for offences committed after 26 June 2017, replace the Money Laundering Regulations 2007.

The MLR 2017 and the Proceeds of Crime Act 2002 ('POCA') impact on certain areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.

Scope of the Policy

This Policy applies to all employees (including agency staff) of the Council and elected Members, and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.

What is Money Laundering?

Money laundering offences include:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 POCA);
- 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 328 POCA);
- Acquiring, using or possessing criminal property (section 329 POCA);
- Investing the proceeds of crime into other financial products or the acquisition of property / assets; or
- 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 of an investigation.

Although the term "*money laundering*" is generally used to describe activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way, do nothing about it, or tip off anyone attempting to launder funds. Failure to report money laundering is an offence.

The Guidance Note gives practical examples of money laundering, to aid understanding. This Policy and Procedure sets out how any concerns should be raised. It is important that

employees in areas of money laundering risk are familiar with their legal responsibilities as criminal sanctions may be imposed for failure to comply with legislative requirements. Failure by a member of staff to comply with the procedures set out in this Policy could also lead to disciplinary action.

Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities; serious criminal sanctions may be imposed for breaches of the legislation.

Legislation

The main UK legislation covering anti-money laundering and terrorist financing is:

- Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005);
- Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001); and
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

Our Responsibilities

The main requirements of the legislation are:

- To appoint a Money Laundering Reporting Officer (MLRO);
- Maintain client identification procedures in certain circumstances;
- Implement a procedure to enable the reporting of suspicions of money laundering; and
- Maintain record keeping procedures.

Providing the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purpose of terrorism, or resulting from acts of terrorism.

Potentially very heavy penalties (unlimited fines and imprisonment of up to 14 years) can be handed down to those who are convicted of one of the offences above.

The regulations require the Council to appoint a Nominated Officer as the Money Laundering Reporting Officer: The officer nominated to:

- Receive internal suspicious transactions reports (known as disclosures) from within the Council;
- Deciding whether these should be reported to the National Crime Agency; and
- If appropriate, making such reports to the National Crime Agency, is

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Not all of the Council's business is "relevant" for the purposes of the legislation. The areas of council business which are relevant include:

- Dealing in, managing and administering investments;
- Accountancy services and tax advice;
- Audit services;
- Legal services involving finance and property;
- Conveyancing work - sale of property and land. The provision of services in relation to the formation, operation or management of a company or a trust; and
- Dealing in goods of any description by way of business (including dealing as an auctioneer) wherever a transaction involves accepting a total cash payment.

A cash payment of £10,000 or more should not be accepted without seeking advice or approval from the Director of Law and Governance / Service Director Financial Services / Chief Internal Auditor as set out in Financial Regulations.

The safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council. The legislation applies to all staff, but awareness raising will be targeted at staff in highest risk areas.

Reporting to the Money Laundering Reporting Officer (MLRO)

Where you know or suspect that money laundering activity is taking / has taken place, or you become concerned that your involvement in a matter may amount to facilitating the acquisition, disguising, converting, possessing or retention of criminal property (a prohibited act) you must disclose this as soon as practicable to the MLRO. The disclosure should be on or before the activity. There must be good reason if it is reported afterwards.

The Disclosure Report must include as much detail as possible, for example:

- Full details of all the people involved
- Full details of your / their involvement

If you are concerned that your involvement in the transaction would amount to a prohibited act, then your report must include all relevant details, as you will need consent from the National Crime Agency (NCA), via the MLRO, to take any further part in the transaction.

You should therefore make it clear in the report whether there are any deadlines which make the matter more urgent, for example, a completion date or court deadline.

Once you have reported the matter to the MLRO you must follow any directions that may be given to you.

- Do not make any further enquiries into the matter yourself: any necessary investigation will be undertaken by National Crime Agency (NCA);
- Co-operate with MLRO and the authorities during any subsequent money laundering investigation;
- Don't voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent for the transaction to proceed. This could constitute a tipping off offence;
- Don't make any reference on a client file or record, to a report having been made to the MLRO in case of a client exercising their subject access rights. The MLRO will keep the appropriate records in a confidential manner.

Consideration of the disclosure by the Money Laundering Reporting Officer

Upon receipt of a disclosure report, the MLRO will note the date the report is received and acknowledge receipt of it. They should also advise you of the timescale within which a response can be expected.

The MLRO will consider the report and any other available internal information that might be relevant and make other enquiries as necessary to determine whether a report to NCA is required. The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the report and any other relevant information, a timely determination must be made as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- Whether consent needs to be sought from NCA for a particular transaction to proceed.

A report must be made as soon as practicable to the NCA by the MLRO. The report may not be immediately made to NCA if there is a genuine reason not to do so. For example, legal professional privilege may apply and be a genuine reason for not disclosing the information to the NCA immediately.

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then a note must be made in the Money Laundering reporting format accordingly; consent can then immediately be given for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to NCA.

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

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

All disclosure reports referred to the MLRO and reports made by them to the NCA must be retained by the MLRO in a secure manner for a minimum of five years.

The MLRO commits a criminal offence if they fail to report a disclosure made to them, to the NCA.

Client Identification Procedure (Due Diligence)

When dealing with financial transactions, employees must take steps to identify a citizen and check that they are who they say they are. This will mean obtaining identification documents.

Where the Council is carrying out relevant business (accountancy and financial functions, audit services and financial, company and property transactions of legal services) and:

- forms an ongoing business relationship with a client; or
- carries out an occasional transaction in excess of £10,000; or
- suspects money laundering or terrorist financing; or
- Doubts the reliability or adequacy of documents, data or information previously obtained for the purposes of identification or verification.

Then the Client Identification Procedure must be followed before any business is undertaken for that client. Please note that unlike the reporting procedure, the client identification procedure is restricted to those operating 'relevant businesses'.

Satisfactory evidence of the identity of the prospective client must be obtained as soon as practicable after instructions are received. This might involve:

- checking the company website;
- confirming the nature of the business and directors with Companies House; or
- confirming the identity of the key contact within the company

If there is any doubt about a citizen's identity then do not continue to deal with them until you are sure.

In certain circumstances enhanced citizen due diligence must be carried out for example where:

- The citizen has not been physically present for identification;
- The citizen is a politically exposed person (an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution / body, their immediate family members or close associates);
- There is a beneficial owner who is not the citizen with which you are dealing. 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 citizen due diligence could include any additional documentation, data or information that will confirm the citizen's identity and / or the source of the funds to be used in the business relationship/ transaction. If you believe that enhanced citizen due diligence is required then you must consult the MLRO prior to carrying it out.

If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot proceed any further.

The requirement for the citizen identification procedure, or due diligence, applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing citizen 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 citizen and a regular scrutiny of the transactions involved.

Record Keeping Procedures

Each department of the Council conducting relevant business must maintain records of:

- client identification evidence obtained; and
- Details of all relevant business transactions carried out for clients for at least five years.

This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

The precise nature of the records is not prescribed by law, but must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of 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. All records must be kept in compliance with the Data Protection Act 1998.

Training

In support of the policy and procedure, the Council will:

- Make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation;
- Give targeted training to those most likely to encounter money laundering;
- Prepare guidance notes to assist staff in the operation of this policy;
- Make the Policy, guidance and reporting form available to officers and members on the intranet; and
- Issue regular reminders to staff on the requirements of the Anti-Money Laundering Policy adopted by the council.

Help and Advice

Should you have any concerns whatsoever regarding any transaction then you should contact the MLRO. Other contacts in Internal Audit available to discuss any suspicions are:

Steve Crabtree, Chief Internal Auditor
Email: steve.crabtree@peterborough.gov.uk

Julie Taylor, Group Auditor
Email: Julie.taylor@peterborough.gov.uk

Louise Cooke, Group Auditor
Email: louise.cooke@peterborough.gov.uk

Responsible Officer: Chief Internal Auditor
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ANTI MONEY LAUNDERING GUIDANCE

Introduction

Money laundering legislation implemented by the Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 requires the Council to establish procedures designed to prevent the use of its services for money laundering.

The law is intended to prevent money from illegal activities such as drug dealing from being 'laundered' and turned into legitimate finance. Money laundering might also be used to hide the financing of terrorism or other criminal activities.

What is Money Laundering?

Money laundering is the disguising of the source of criminal money, either in cash, paper or electronic form. This may be in order to conceal that the money has originated from crime, or it may be to conceal the source of money that is to be used in the pursuit of future crime. Money Laundering can be complex and involve several transactions.

How to make a disclosure report

Where you know or suspect that money-laundering activity is taking / has taken place it must be disclosed immediately to the Money Laundering Reporting Officer. The disclosure should be on or before the activity. There **must** be good reasons if it is reported afterwards.

If you prefer, you can first discuss your suspicions with the named officers below.

Contacts are:

- Money Laundering Reporting Officer – Fiona McMillan, Director of Law and Governance
- Cecilie Booth, Interim Corporate Director of Resources
- Steve Crabtree, Chief Internal Auditor
- Julie Taylor, Group Auditor
- Louise Cooke, Group Auditor

No discussions should take place with colleagues other than your manager as confidentiality is paramount. You will be informed if a report is to be sent to the National Crime Agency and advised on what to do next. Please see the Council's Anti-Money Laundering Policy for more information.

Any Council employee, could contravene the money laundering legislation if they become aware of, or suspect the existence of criminal 'property', and continue to be involved in the matter without reporting their concerns.

If an employee has a concern they should ask questions or seek further information to allay any suspicions they may have. Enquiries can be made of the individual to establish whether or not there is an innocent explanation before deciding whether or not to make a disclosure report. If you continue to be suspicious you should make a report to the Council's nominated officer.

The suspected money launderer must not be informed that the matter is being reported.

Once a report has been made to the Council's nominated officer or if you suspect that a report has been made, the potential offence of "Tipping Off" arises. Tipping Off is where someone may prejudice an investigation by giving information to a person suspected of money laundering.

How you might recognise money laundering and what checks you must do

Carry out appropriate checks to satisfy yourself of the company's or citizen's ID. Additional care must be taken when the person is not physically present.

Satisfy yourself as to the source of the funds and the owner of them. Ask yourself "Given my knowledge of this person, is it plausible that they can pay this amount, for this service, by this means?"

Ongoing Monitoring

Once you have verified the identity of the citizen (or company) you will still need to monitor activity throughout the relationship and obtain updated documents when necessary. Records must be kept of citizen identification and business transactions for at least 5 years after the transaction or end of the business relationship. All records must be kept in accordance with the Data Protection Act.

Examples of potential money laundering

Example 1: Any large cash transaction should alert suspicion.

- A business looks to pay its business rates with a payment in cash of £10,000 and the balance by bank transfer.
- Financial Regulations do not allow deposits of cash in excess of £10,000 to be accepted, unless approval has been given by the Service Director Financial Services. Any large cash transactions should arouse suspicion.

Example 2: An offer is made for a parcel of land, by a developer, which is far in excess of its value.

Example 3: There is an unexplained significant overpayment which the person then requests is paid back to them, or a transaction is cancelled and refund requested.

- Payments should always be paid back to the account from which they came. Look to see if there is a pattern of similar transactions.

Example 4: Liabilities are repeatedly met by payment from an unconnected 3rd party.

Other behaviour that may arouse suspicion:

- If information about the client reveals criminality or association with criminality;
- If there is more than one Solicitor / Conveyancer used in the sale or purchase of a property or land or if there is an unexplained and unusual geographic use of a solicitor in relation to a property's location;

- If the Buyer or Seller's financial profile does not fit, particularly in relation to property transactions.
- If there are over complicated or poor financial systems;
- Any odd or secretive behaviour;
- Illogical involvement of an unconnected third party;
- A large transaction split into smaller ones without apparent reason (other than perhaps to avoid identity checks)

