



ANTI-MONEY LAUNDERING POLICY

INTRODUCTION

1. There have been significant changes to the legislation concerning money laundering, namely:-
 - The Proceeds of Crime Act 2002 (PoCA)
 - The Money Laundering Regulations 2003 (MLR)
2. These changes have broadened the definition of money laundering and the range of activities covered by the statutory framework. As a result, the obligations now 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

3. This policy applies to all Members and all employees of the Council and aims to maintain the high standards of conduct that currently exist in the Council by preventing criminal activity through money laundering. The policy sets out the procedures which must be followed (eg., the reporting of suspicions of money laundering) to enable the Council to comply with its legal obligations.
4. Further information is set out in the accompanying Guidance Note. Both the Policy and Guidance Note sit alongside the Council's Whistleblowing Policy and Anti-Fraud and Anti-Corruption Strategy.
5. Failure by a Member or an employee to comply with the procedures set out in this policy may lead to disciplinary action.

WHAT IS MONEY LAUNDERING?

6. Money laundering means:-
 - concealing disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
 - 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; or
 - acquiring, using or possessing criminal property (section 329); or
 - becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorist Act 2000)

These are the primary money laundering offences and thus prohibited acts under the legislation.

7. Potentially any Member or employee could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and / or do nothing about it. The Guidance note gives practical examples and this policy sets out how any concerns should be raised.
8. Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all Members and employees are familiar with their legal responsibilities.

Serious criminal sanctions may be imposed for breaches of the legislation.

WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

9. Organisations conducting “relevant business” must:-
 - Appoint a Money Laundering reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else’s)
 - Implement a procedure to enable the reporting of suspicions of money laundering
 - Maintain client identification procedures in certain circumstances
 - Maintain record keeping procedures
10. Not all the Council’s business is “relevant” for the purposes of the legislation. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council - therefore all Members and employees are required to comply with the reporting procedure set out in Paragraphs 13 – 28 below.

The following sections of this Policy provide detail about the requirements listed in Paragraph 9 above.

THE MONEY LAUNDERING REPORTING OFFICER

11. The officer nominated to receive disclosures about money laundering activities is the Head of Financial & Information Services, Dev Gopal. He can be contacted as follows:-

Address : Hertsmere Borough Council, Civic Offices,
Elstree Way, Borehamwood, Herts WD6 1WA

Telephone : 020 8207 2277 (Ext 5320)

e-mail : devs.gopal@hertsmere.gov.uk

12. In the absence of the MLRO, the Finance Manager, Kevin Gibbons is authorised to deputise for him, and can be contacted at the address above, telephone 020 8207 2277 (Ext 3145) and e-mail kevin.gibbons@hertsmere.gov.uk

DISCLOSURE PROCEDURE

Reporting to the Money Laundering Officer

13. Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as possible to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later.

Should you not do so you may be liable to prosecution.

14. Your disclosure should be made to the MLRO using the report form attached at Appendix 1. The report must include as much information as possible, eg.,
- (a) Full details of the people involved (including yourself, if relevant) eg., name, date of birth, address, company names, directorships, phone numbers, etc
 - (b) Full details of their / your involvement:-
 - If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327-329 of the 2002 Act, then your report must include all relevant details, as you will need consent from the National Criminal Intelligence service (NCIS), via the MLRO, to take any further part in the transaction – this is the case even if the client gives instructions for the matter to proceed before such consent is given
 - You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline
 - (c) The types of money laundering activity involved:-
 - If possible, cite the section number(s) under which the report is being made, eg., a principal money laundering offence under the 2002 Act (or 200 Act), or general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both

- (d) The dates of such activities
- (e) Whether the transactions have happened, are ongoing or are imminent
- (f) Where they took place
- (g) How they are undertaken
- (h) The (likely) amount of money/assets involved
- (i) Why, exactly, you are suspicious – the NCIS will require full reasons;

Along with any other available information to enable the MLRO to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable her to prepare her report to the NCIS, where appropriate. You should also enclose copies of any supporting documentation.

15. Once you have reported the matter to the MLRO you must follow any directions she may give you.

You must NOT make any further enquiries into the matter yourself.

Any necessary investigation will be undertaken by the NCIS. Simply report your suspicions to the MLRO, who will refer the matter onto the NCIS, if appropriate. All Members and employees will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

16. **Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) you suspect of money laundering.**

Even if the NCIS has given consent to a particular transaction proceeding, without the specific consent of the MLRO. Otherwise you may commit a criminal offence of “tipping off” (see the Guidance Note for further details).

17. Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

Consideration of the Disclosure by the Money Laundering Officer

18. Upon receipt of a disclosure report, the MLRO must note the date of receipt on her section of the report and acknowledge receipt of it. She should also advise you of the timescale within which she expects to respond to you.
19. The MLRO will consider the report and other available internal material she thinks relevant, eg.,
 - reviewing other transaction patterns and volumes
 - the length of any business relationship involved
 - the number of any on-off transactions and linked one off transactions
 - any identification evidence held
20. The MLRO will undertake such other reasonable enquiries she thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCIS is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.
21. Once the MLRO has evaluated the disclosure report and any other relevant information, she must make a timely determination as to whether:-
 - there is actual or suspected money laundering taking place
 - there are reasonable grounds to know or suspect that is the case
 - whether she needs to seek consent from the NCIS for a particular transaction to proceed
22. Where the MLRO does so conclude, then she must disclose the matter as soon as practicable to the NCIS on their standard report form and in the prescribed manner, unless she has a reasonable excuse for non-disclosure to the NCIS (eg., if you are a lawyer and wish to claim legal professional privilege for not disclosing the information).
23. Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then she must note the report accordingly; she can then immediately give his consent for any ongoing or immediate transactions to proceed.
24. In cases where legal professional privilege may apply, the MLRO must liaise with the legal advisor to decide whether there is a reasonable excuse for not reporting the matter to the NCIS.

25. Where consent is required from the NCIS for a transaction to proceed, then the transactions in question must not be undertaken or completed until the NCIS has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCIS.
26. Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then she shall mark the report accordingly and give her consent for any ongoing or imminent transactions to proceed.
27. All disclosure reports referred to the MLRO and reports made by her to the NCI must be retained by the MLRO in a confidential file kept for that purpose for a period of five years.
28. The MLRO commits a criminal offence if she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to her, that another person is engaged in money laundering and she does not disclose this as soon as practicable to the MLRO.

CLIENT IDENTIFICATION PROCEDURE

29. Where the Council is carrying out relevant business (accountancy, audit and certain legal services) and:
 - (a) forms an ongoing business relationship with a client; or
 - (b) undertakes a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £10,000) or more; or
 - (c) undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro or more; or
 - (d) it is known or suspected that a one-off transaction (or a series of them) involves money laundering

then this Client Identification Procedure must be followed before any business is undertaken for that client.

Please note that, unlike the reporting procedure, it must be emphasised that the Client Procedure will only apply to those carrying out relevant business.

30. In the above circumstances, employees in the relevant unit of the Council must obtain satisfactory evidence of the identity of the prospective client, as soon as practicable after instructions are received (unless evidence of the client has already been obtained). This applies to existing clients, as well as new ones, but identification evidence is not required for matters entered into prior to 1 March 2004.

31. Once instructions to provide relevant business have been received, and it has been established that Paragraph 29 above applies, evidence of identity should be obtained as follows:-

Internal Clients

Appropriate evidence of identity will be either written and signed instructions on Council-headed notepaper at the outset of the matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

External Clients

Appropriate evidence of identity will be written and signed instructions on the organisation's official letterhead at the outset of the matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself – please see the Guidance Note for more information.

32. In all cases, the evidence should be retained for at least five years from the end of the business relationship or transaction(s).
33. If satisfactory evidence of identity is not obtained at the outset of the matter, then the business relationship or transaction(s) cannot proceed any further.

RECORD KEEPING PROCEDURES

34. Each Service Area conducting relevant business must maintain records of:-

- client identification evidence obtained
- details of all relevant business transactions carried out for clients

for at least five years. This is so that they may be used in evidence in any subsequent investigation by the authorities into money laundering.

35. The precise nature of the records is not prescribed by law, however, they must be capable of providing an audit trail during any subsequent investigation, eg., distinguishing the client and the relevant transaction and recording in what form funds were received or paid.

36. In practice, the Service Areas will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

CONCLUSION

37. The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy has been written so as to enable the Council to meet the legal requirements in a way which is proportionate to the very low risk to the Council of contravening the legislation.
38. Should you have any concerns whatsoever any transactions then you should contact the MLRO.