

**Hertsmere Borough
Council
Anti-Money
Laundering Policy**

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1. Introduction

- 1.1 Although local authorities are not directly covered by the requirements of The Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.
- 1.2 Hertsmere Borough Council (the Council) is committed to the highest possible standards of conduct and has, therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.
- 1.3 This policy includes the appointment of an Money Laundering Reporting Officer (MLRO) to comply with legislation and to oversee the reporting of suspicious activity and money laundering to the National Crime Agency.

2. Scope of the Policy

- 2.1 This policy aims to maintain the high standards of conduct that currently exist within the Council by preventing criminal activity through money laundering and to enable the Council to comply with legal obligations.
- 2.2 This policy applies to all employees, whether permanent or temporary, Members of the Council, contractors and anyone providing a service for the council. Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council, and also places a duty upon them to report suspicious activity and money laundering to the MLRO.
- 2.3 Individuals who have a concern relating to a matter outside of work should contact the Police.

3. Definition of Money Laundering

- 3.1 Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 (POCA) as the following 'prohibited acts':
 - a) Concealing, disguising, converting, transferring or removing criminal property from the UK. (s327 POCA);
 - b) 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. (s328 POCA);
 - c) Acquiring, using or possessing criminal property (s329 POCA);
 - d) Doing something that might prejudice an investigation e.g. falsifying a document (s333 POCA);
 - e) Failure to disclose one of the offences listed in a) to c) above, where there are reasonable grounds for knowledge or suspicion (s330-332 POCA); and
 - f) Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation. (s333 POCA).

- 3.2 Provided 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.
- 3.3 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 purposes of terrorism, or resulting from acts of terrorism.
- 3.4 Although the term ‘money laundering’ is generally used to describe the 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.
- 3.5 Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences detailed in 3.1.

4. Requirements of the Money Laundering Legislation

4.1 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.

5. The Money Laundering Reporting Officer (MLRO)

5.1 The Council has designated the Head of Shared Anti-Fraud Service (SAFS) as the Money Laundering Reporting Officer.

5.2 **The key requirement on employees is to promptly report any suspected money laundering activity to the MLRO.** (See 7. Reporting Procedure for Suspicions of Money Laundering, below for further guidance.)

The MLRO can be contacted at;

Address: Head of Shared Anti-Fraud Service - Hertfordshire County Council.
Shared Anti-Fraud Service (SAFS) 1st Floor Robertson House, Six Hills Road,
Stevenage. Hertfordshire. SG1 2FQ.

Email: MLRO@hertfordshire.gov.uk

Telephone No: 01438 844705

In the absence of the Head of the SAFS the SAFS Assistant Managers are authorised to deputise.

6. Client Identification Procedures

- 6.1 Although not a legal requirement, the Council has developed formal client identification procedures which must be followed when council land or property is being sold. These procedures require individuals and, if appropriate, companies to provide proof of identity and current address.
- 6.2 If satisfactory evidence is not obtained at the outset of a matter, then the transaction must not be progressed and a disclosure report must be submitted to the Money Laundering Reporting Officer.
- 6.3 All personal data collected must be kept in compliance with the Data Protection Act 2018 and the General Data-Protection Regulation (UK).

7. Reporting Procedure for Suspicions of Money Laundering

- 7.1 Where you know or suspect that money laundering activity is taking place or has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. Your disclosure should be made to the MLRO using the disclosure report template attached as appendix 1 to this policy document, the report must include as much detail as possible including;
 - Full details of the people involved;
 - Full details of the nature of their/your involvement;
 - The types of money laundering activity involved;
 - The date(s) of such activities;
 - 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; and
 - Why, exactly, you are suspicious.
- 7.2 Along with 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 them to prepare their report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.
- 7.3 If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the Act, then your report must include all relevant details, as you will need consent from the NCA, 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 legal deadline;

- 7.4 Once you have reported the matter to the MLRO you must follow any directions the MLRO may give you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 7.5 Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA 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”.
- 7.6 Do not 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 may 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.

8. Consideration of the disclosure by the Money Laundering Reporting Officer (MLRO)

- 8.1 Upon receipt of a disclosure report, the MLRO must note the date of receipt on their section of the report and acknowledge receipt of it. They should also advise you of the timescale within which they expect to respond to you. The MLRO will consider the report and any other available internal information they think relevant, for example:
- reviewing other transaction patterns and volumes;
 - the length of any business relationship involved;
 - the number of any one-off transactions and linked one-off transactions; and
 - any identification evidence held.
- 8.2 The MLRO will undertake such other reasonable inquiries they think appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA 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.
- 8.3 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination 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 they need to seek consent from the NCA for a particular transaction to proceed.
- 8.4 Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless they have a reasonable excuse for non-disclosure to the NCA

(for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

- 8.5 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then they must note the report accordingly; they can then immediately give their consent for any ongoing or imminent transactions to proceed.
- 8.6 In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Legal Department to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
- 8.7 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.
- 8.8 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then they shall mark the report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.
- 8.9 All disclosure reports referred to the MLRO and reports made by them to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 8.10 The MLRO commits a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

9. Training

- 9.1 Officers considered likely to be exposed to suspicious situations, will be made aware of these by senior management and provided with appropriate training. Additionally, all employees and Members will be familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves.
- 9.2 Notwithstanding the paragraphs above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.

10. Financial Regulations

- 10.1 Although the relevant Regulations relating to money laundering do not, in many cases directly apply to local authorities, guidance from CIPFA states that local authorities should comply with the requirements of these Regulations. All members of staff, and those acting on behalf of the Council, must follow the Council's Anti Money Laundering Policy.
- 10.2 This Policy sets a limit on payments to the Council in the form of cash; places a duty on members of staff who suspect money laundering activity to report this to the MLRO; and requires the MLRO to make appropriate reports to the National Crime Agency.

10.3 The Head of SAFS is the officer nominated to act as the Council's MLRO and to receive disclosures about money laundering activity within the Council. In the absence of the Head of SAFS one the SAFS Asst Managers can deputise.

The Regulations

- A. No single transaction to the Council will be accepted in cash if it exceeds £3,000. Anyone who wishes to make a cash payment in excess of this limit will need to make advance arrangements for acceptance with the Head of Finance and Business Services.
- B. Any employee who suspects money laundering activity must make a Disclosure Report reporting their suspicion promptly to the Money Laundering Reporting Officer (MLRO), or to the MLRO's deputy if appropriate, using the Money Laundering Reporting Procedure. Reporting template attached as appendix 1.
- C. The employee must follow any subsequent directions of the MLRO or deputy, and must not themselves make any further enquiries into the matter.
- D. The employee must not disclose or otherwise indicate their suspicions to the person suspected of money laundering.
- E. The MLRO or deputy must promptly evaluate any Disclosure Report, to determine whether it should be reported to the National Crime Agency (NCA).
- F. The MLRO or deputy must, if they so determine, promptly report the matter to NCA on their standard report form and in the prescribed manner.
- G. The MLRO or deputy will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

11. Conclusion

11.1 Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the level of risk it faces of money laundering offences.

12. Review

12. This Policy will be kept under regular review by the MLRO, s151 and Monitoring Officers to ensure compliance with current legislation and best practice. Any significant changes will be reported to Members for approval as required

Appendix 1. Report to MLRO - Template

CONFIDENTIAL

To: The Money Laundering Reporting Officer (MLRO)
Hertfordshire County Council
Head of Shared Anti-Fraud Service
1st Floor, Robertson House, Six Hills Road, Stevenage. HERTS. SG1 2FQ

From Officer Reporting Suspected Activity:

| | |
|--------------------|--|
| Name: | |
| Position: | |
| Business Unit: | |
| Email address: | |
| Telephone numbers: | |

Do not discuss the content of this report with anyone, especially the person you believe to be involved in the suspected money laundering activity you have described. To do so may constitute a tipping off offence.

Details of suspected offence:

| |
|---|
| Name(s) and address(es) of person(s) involved: (Please also include date of birth, nationality, national insurance numbers- if possible) (If a company please include details of nature of business, type of organisation, registered office address, company registration number, VAT registration number) |
| Nature, value and timing of activity involved: (Please include full details e.g. what, when, where, how.) |
| Nature of suspicions regarding such activity: |
| Has any investigation been undertaken (as far as you are aware), If yes, please include details below: Yes / No |
| Have you discussed your suspicions with anyone else, if yes, please specify below, explaining why such discussion was necessary: Yes / No |
| Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society) If yes, please specify below: Yes / No |
| Do you feel you have reasonable grounds for not disclosing the matter to the FCA? (e.g. are you a lawyer and wish to claim legal professional privilege?) If yes, please set out full details below: Yes / No |
| Are you involved in a transaction which might be a prohibited act under the Proceeds of Crime Act and which requires appropriate consent from NCA, If yes, please enclose details below: Yes / No |
| Please detail below any other information you feel is relevant: |

FOR COMPLETION BY THE MONEY LAUNDERING REPORTING OFFICER

| | |
|--------------------------------------|--|
| Date report received: | |
| Date receipt of report acknowledged: | |

Consideration of Disclosure - Action plan

| |
|---|
| Are there reasonable grounds for suspecting money-laundering activity? |
| If there are reasonable grounds for suspicion, will a report be made to NCA? Yes / No |
| If yes, please confirm date of report to NCA: |

| | |
|--|--|
| Details of liaison with NCA regarding the report: | |
| Is consent required from the NCA for any ongoing or imminent transactions that would otherwise be prohibited acts. If yes, please confirm full details; Yes / No | |
| | |

| | |
|---|--|
| Date consent received from NCA: | |
| Date receipt of report acknowledged: | |
| Date consent given by you to employee: | |
| Date consent given by you to employee for any prohibited act transactions to proceed: | |

| |
|--|
| If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out below the reason(s) for non-disclosure: |
| |
| Other relevant information: |
| |
| Signed:..... Dated:..... |

RETENTION PERIOD FIVE YEARS

