

WEST LANCASHIRE BOROUGH COUNCIL

ANTI-MONEY LAUNDERING POLICY

1.0 INTRODUCTION

1.1 The Proceeds of Crime 2002 Act, the Terrorist Act 2000 and the Money Laundering Regulations 2007 broadly define money laundering and the range of activities covered by the statutory framework. Obligations 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. It is, therefore, good practice to have a robust Policy in place and promote staff awareness of potential money laundering activity.

2.0 SCOPE OF THE POLICY

2.1 This Policy applies to all employees of the Council 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 that must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council and its officers to comply with their legal obligations.

2.2 Further information is set out in the accompanying Anti-Money Laundering Guidance Note and Procedures. Both sit alongside the Council's Whistleblowing Code and Anti-Fraud, Bribery and Corruption Policy.

2.3 Failure by a member of staff to comply with the procedures set out in this Policy may ~~lead to~~ **result in** disciplinary action, ~~being taken against them~~. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure. It should also be noted that in certain instances officers might themselves become criminally liable for breach of the 2000 Act, 2002 Act and the 2007 Regulations.

3.0 WHAT IS MONEY LAUNDERING?

3.1 These are the primary money laundering offences and thus prohibited acts under the law:

- concealing, disguising, converting, transferring criminal property or removing it from the UK; 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; or
- becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property.

3.2 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 and/or do nothing about it. The Guidance Note and Procedures document gives practical examples. This Policy sets out how any concerns should be raised.

~~3.3 Whilst the risk to the Council of contravening the legislation is low, **it is important that all employees are familiar with the legal responsibilities: serious criminal sanctions can be imposed for breaches of the legislation.**~~

4.0 WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

4.1 The law requires those organisations in the 'regulated sector' and conducting 'relevant business' to

- 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 and record keeping procedures.

4.2 It is considered that the Council does not fall within the regulated sector nor does it conduct relevant business. However it is good practice, and will aid the Council's compliance with the wider requirements of the relevant legislation if it adopts policies and procedures which are in line with the requirements identified in the bullet points above.

4.3 All staff are required to comply with the reporting procedure set out in section 6 below to ensure consistency throughout the organisation and avoid inadvertent offences being committed.

4.4 The following sections of this Policy provide further detail about the requirements listed in paragraph 4.1 to the extent that they are relevant to the Council.

5.0 THE MONEY LAUNDERING REPORTING OFFICER

5.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Internal Audit Manager, Mike Coysh (MLRO) (i). He can be contacted as follows:

Mike Coysh
Internal Audit Manager
52 Derby Street
Ormskirk
[L39 2DF](#)

Telephone: 01695 712603 (internal 2603)

5.2 In the absence of the MLRO, the Assistant Solicitor, Michael Hynes, is authorised to deputise for him. He can be contacted at the 52 Derby Street offices address or on extension 5522.

(i) Note, this is not a formal appointment under section 337 or 338 of the 2002 Act

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6.0 DISCLOSURE PROCEDURE

Reporting to the Money Laundering Reporting Officer

6.1 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 practicable to the MLRO. The disclosure should be within "hours" of the information coming to your attention, not weeks or months later. ~~Whilst failure to disclose is no longer an offence for public authorities under the 2007 regulations, it is in your best interest and the interests of the Council to do so.~~

6.2 Your disclosure should be made to the MLRO using the proforma report set out in the Guidance Notes and Procedures. The report must include as much detail as possible, for example:

- ~~Full details of the~~As much detail as known about the people involved ~~(including yourself, if relevant)~~, e.g. name, date of birth, address, company names, directorships, phone numbers, etc;
- Full details of the nature of their/your involvement;
 - If you are concerned that your involvement in the transaction would amount to a prohibited act under the Proceeds of crime Act, then your report must include all relevant details, as you will need consent from the ~~Serious Organised Crime Agency (SOCA)~~National Crime Agency (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 court deadline;
- The types of money laundering activity involved:
 - if possible, cite the section number(s) under which the report is being made
- 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 – ~~SOCA~~NCA 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 him to prepare his report to ~~SOCA~~NCA, where appropriate. You should also enclose copies of any relevant supporting documentation.

6.3 Once you have reported the matter to the MLRO you must follow any directions he may give you. **You must NOT make any further enquiries into the matter yourself:** any necessary investigation will be undertaken by ~~SOCA~~NCA. Simply report your suspicions to the MLRO who will refer the matter on to ~~SOCA~~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.

- 6.4 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 SOCA-NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO. ~~'Tipping off' is no longer an offence under the 2007 regulations for public authorities, however to do so may jeopardise the investigation~~
- 6.5 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. The MLRO will keep the appropriate records in a confidential manner.

Consideration of the disclosure by the Money Laundering Reporting Officer

- 6.6 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.
- 6.7 The MLRO will consider the report and any other available internal information he thinks relevant e.g.:
- 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;
 - any identification evidence held;
- and undertake such other reasonable enquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to SOCA 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.
- 6.8 Once the MLRO has evaluated the disclosure report and any other relevant information, he 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 he needs to seek consent from SOCA-NCA for a particular transaction to proceed.
- 6.9 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to SOCA-NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to SOCA-NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).
- 6.9.1 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.
- 6.9.2 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 SOCA-NCA.

- 6.9.3 Where consent is required from the ~~NCIS-NCA~~ for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until ~~SOCA-NCA~~ has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from ~~SOGANCA~~.
- 6.10 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.
- 6.11 All disclosure reports referred to the MLRO and reports made by him to ~~SOCA-NCA~~ must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

7.0 CLIENT IDENTIFICATION PROCEDURE

- 7.1 The client identification procedure – putting in place formal procedures for evidencing the identity of those they do business with under the 2007 regulations - is only required, under the regulations, by those engaging in specific areas of Council activity. It is essential, however, for all staff to ensure they are constantly alert to potentially suspicious circumstances, for example, situations where funds flow through the Council from a source with which it is unfamiliar.
- 7.2 In particular, if the Council is forming a new business relationship, and/or is considering undertaking a significant one-off transaction, officers must ensure that their own service procedures satisfy the requirements of the Client Identification Procedure before any business is undertaken for that client. This will be especially true if the parties concerned are not physically present for identification purposes and to situations where they may be acting for absent third parties. Satisfactory evidence of the identity of the prospective client should be obtained beforehand. For advice on appropriate and acceptable identification documents and any record keeping requirements, contact the MLRO.

8.0 CONCLUSION

- 8.1 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.
- 8.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

Resources used in connection with the preparation of the Anti-Money Laundering Policy and Guidance Note (and helpful reference points):

www.moneylaunderingreporting.co.uk

www.nationalcrimeagency.gov.uk <http://www.soca.gov.uk/>

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www.anti-moneylaundering.org

www.theclc.gov.uk

www.fowles.co.uk/MoneyLaundering.htm

www.hardwickecrime.co.uk/access/resources/articles/03031201

The Financial Services' Authority Handbook

The Law Society "Money Laundering: Guidance for Solicitors (Pilot – January 2004)"

"The Money Laundering Regulations" by Charles Ward (The Legal Executive Journal)

"I Spy" by Jon Robins (The Lawyer magazine)

"Secret Disservice" by Peter Caldwell (The Lawyer magazine 8.3.04)

"Property lawyers – are you ready?" by Vanessa France & Jonathan Mills (The Young Solicitors Group Mar/Apr 04)

~~*GIPFA's Combating financial crime. Further guidance on Anti-money laundering for Public Services Organisations 2009*~~