

**WILTSHIRE COUNCIL**

**CABINET**

**23 MARCH 2010**

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**Subject: ANTI MONEY LAUNDERING POLICY**

**Cabinet member: Fleur de Rhe Philipe – Finance, Performance and Risk**

**Executive Summary**

Money laundering is any attempt to use the proceeds of crime for legitimate purposes. The Council and its individual Members and employees have obligations under the Terrorism Act 2000 and certain sections of the Proceeds of Crime Act 2002 relating to money laundering. Public authorities are not legally obliged to implement the provisions of the Money Laundering Regulations 2007, but as a responsible public body, the Council should have a policy and procedures designed to reflect the essence of the UK's anti-terrorist financing and anti money laundering regimes.

The proposed policy ensures that the Council has appropriate and proportionate measures in place to comply with the legal requirements, to implement relevant regulatory provisions and to protect its staff and Members.

**Proposal**

That Cabinet approves the proposed anti money laundering policy supplied at Appendix 1 and its communication to all Council staff and members.

**Reason for Proposal**

To ensure that the Council complies with its legal obligations and regulatory responsibilities in respect of money laundering.

**CARLTON BRAND**  
Director of Resources

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**Subject:** **ANTI MONEY LAUNDERING POLICY**

**Cabinet member:** **Fleur de Rhe Philipe – Finance, Performance and Risk Purpose of Report**

1. To seek approval of an Anti Money Laundering (AML) Policy which will ensure the Council complies with all relevant legal and regulatory requirements provided for by the UK's anti-terrorist financing and anti money laundering regimes.

### **Background**

2. Money laundering is any attempt to use the proceeds of crime for legitimate purposes. Anyone who becomes aware of an activity which they have reasonable grounds to suspect, is related to the proceeds of crime may be guilty of a money laundering offence.
3. The legal and regulatory framework for the UK's anti-terrorist financing and anti money laundering arrangements comprises:
  - The Terrorism Act 2000 (TA);
  - The Proceeds of Crime Act 2002 (POCA); and
  - The Money Laundering Regulations 2007 (MLR).
4. The Chartered Institute of Public Finance and Accountancy (CIPFA) has published guidance on how the provisions of this framework apply to public authorities (CIPFA, 2009). The Policy accompanying this report is designed to ensure that the Council and its staff fulfil all legal obligations and regulatory requirements in accordance with this guidance.
5. Public authorities and their staff are subject to the full provisions of the TA and four of the six principal money laundering offences defined in the POCA are relevant. The detail of the provisions relating to money laundering, in so far as they affect the Council, are summarised in the Appendix to the policy accompanying this report.
6. The Council is not legally obliged to apply the provisions of the MLR because public authorities are neither 'relevant persons' (as defined in the MLR) nor part of the 'regulated sector' (as defined in POCA 2002). However, as a prudent and responsible public body, the Council's policy and procedures should be designed to reflect the essence of the UK's anti-terrorist financing and anti money laundering regimes.

## **Main Considerations for the Council**

7. Although the Council's risk of exposure to money laundering is relatively low and some of the provisions of the legal and regulatory framework do not apply, there is, as CIPFA observes, a reputational risk for any authority that does not have adequate policies and procedures in place. CIPFA's view is that, "it is prudent and responsible practice for public service organisations, including those outside the scope of the regulations, to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations."
8. The risk is not only reputational. There is also a risk that individuals who, in the course of Council business, become aware that criminal property or funds could be involved may commit offences under the TA or POCA sections 327-329 if a reasonable suspicion is not reported.
9. It is therefore important that appropriate and proportionate arrangements are established to ensure that the Council, its staff and Members are protected as far as practicable, notably by having in place a reporting mechanism, arrangements for publicising the responsibilities of individuals and provisions for appropriate training and education.
10. The policy needs to be clear, succinct and practical to ensure maximum accessibility to staff and Members. The details of how the policy is applied in practice will be available to all staff and Members on the Wire in the Anti Money Laundering Procedures.

## **Environmental Impact of the Proposal**

11. No environmental impact has been identified.

## **Equalities Impact of the Proposal**

12. No equalities impact has been identified. Compliance with the proposed policy will ensure that all customers are treated consistently in accordance with the legal requirements related to suspicions of money laundering.

## **Risk Assessment**

13. Non-compliance with the basic procedures set out in the proposed policy exposes
  - the Council to risks of financial loss and reputational damage
  - individual employees to risks of prosecution (as a party to money laundering offences).

The proposed policy addresses and mitigates these risks.

## **Financial Implications**

14. Training and guidance will need to be provided for employees, particularly those in key positions where potential money laundering activity may be encountered.

### **Legal Implications**

15. Adoption of the proposed policy will ensure that the Council complies with the TA and relevant provisions of the POCA.
16. A responsible, appropriate and proportionate anti money laundering policy will enhance Council's governance arrangements and protect its reputation. Such a policy is consistent with local government generally and will increase staff confidence that the council will protect their interests.

### **Options Considered**

17. The legal and regulatory framework renders a policy essential. The options are choices between longer and shorter documents. The aim was to create as short a document as possible whilst communicating key messages.
18. A longer document could describe the procedures in more detail but this was rejected in favour of a separate Procedures document which takes the Policy as its starting point. This ensures that the Policy is not excessively long, is more likely to be read and is less likely to obscure key messages.

### **Conclusions**

19. An anti money laundering policy should be adopted, publicised and made generally accessible. The policy at Appendix 1 reflects all the considerations in this report.

### **CARLTON BRAND**

Director of Resources

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### **Background Papers**

Published documents used in preparing this report:

Chartered Institute of Public Finance and Accountancy (2009),  
Combating Financial Crime, Further Guidance on Anti Money  
Laundering for Public Service Organisations, London, CIPFA.

### **Appendices**

Appendix 1: Anti Money Laundering Policy