

Draft Anti-Money Laundering Policy

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Contact for Review		Name and Position	

1. Introduction to the Policy/ Purpose of the Policy

Although local authorities are not obliged to comply with the requirements of the Money Laundering Regulations 2017, guidance from CIPFA indicates that they should embrace the underlying spirit of the legislation and regulations.

Wiltshire Council takes a zero-tolerance approach to fraud and corruption and as such will be taking a proactive approach to the prevention, detection and reporting of suspected money-laundering incidents. This Policy sets out the Council's commitment to ensuring compliance with the requirements of legislation relating to money-laundering and criminal property. The Policy sits alongside the Council's Anti-Fraud and Corruption Policy Statement.

This policy applies to all employees, whether permanent or temporary, and Members of 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. Individuals who have a concern relating to a matter outside work should contact the Police.

2. The Legal Framework

Money laundering offences are contained in the Proceeds of Crime Act 2002 (POCA)¹ and the Terrorism Act 2000/2006 (TACT)².

There are three main offences:

- **Concealing:** knowing or suspecting a case of money laundering but concealing or disguising its existence.
- **Arranging:** becoming involved in an arrangement to launder money or assisting in money laundering.
- **Acquisition:** use or possession: benefiting from money laundering by acquiring, using or possessing the property concerned.

There is also a 'third party' offence – failure to disclose one of the three main offences detailed above.

POCA creates an obligation on persons in the regulated sector (mainly the financial services sector) to report their suspicion or knowledge of another person's money-laundering to the National Crime Agency (NCA)³, and failure to report is an offence. There are also offences of tipping off about a money laundering disclosure, tipping off about a money-laundering investigation and prejudicing money-laundering investigations.

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.

¹ POCA an Act that allows the confiscation or civil recovery of property which is or represents property obtained through unlawful conduct

² TACT allows the detention of suspected terrorists without charge for 28 days, includes financing and supporting terrorism

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.

The principal offences under POCA and TACT apply to local authorities although some of the other offences (failure to disclose, and tipping-off) do not apply provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000³.

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
- Maintain record keeping procedures

3. Key Definitions

Money-laundering is generally defined as the process by which the proceeds of crime, and the true ownership of those proceeds, are changed so that the proceeds appear to come from a legitimate source. Money-laundering can arise from small profits and savings from relatively minor crimes, such as regulatory breaches, minor tax evasion or benefit fraud. Because banks and financial institutions have developed procedures to alert them to potential money laundering, criminals look for other ways of placing cash within the financial system (for example, by investing in property).

4. Scope of the Policy

How the Council will embrace the Act

- Training of staff and relevant Members to recognise transactions that may indicate money laundering.
- The mandatory requirement for staff to read the anti-money laundering policy
- The Appointment of a Money-laundering Reporting Officer who will receive staff disclosures on suspicions of money-laundering
- Verifying the identity of individuals involved in transactions where appropriate, and keeping records of evidence obtained
- Establishing internal procedures to help prevent money-laundering.
- Reporting any suspicious transactions to the NCA
- Threshold for cash payments
- All personal data collected must be kept in compliance with the Data Protection Act.

³ The FSA regulate services such as insurance, investment business and banking

Circumstances that may be susceptible to money-laundering

- Sale of Council land/buildings (as sale proceeds could be in cash)
- Sales of Council properties (under the right-to-buy scheme)⁴
- Receipt of cash payments
- Investments – this would cover activities such as the issues of local bonds or transfers to or from non-UK banks

Indicators that should raise suspicion include:

- Where the person you are dealing with is excessively secretive or obstructive
- Where a transaction seems unusual, such as an unusually large cash payment
- An overpayment or duplicate payment in cash where the refund is requested by cheque
- Where a customer pays funds to the Council but then ends the transaction for no apparent reason, or unexpectedly asks for money to be refunded or forwarded to a third party
- Where a customer tells you that funds are coming from one source and at the last minute the source changes
- Absence of an obvious legitimate source of funds e.g. where an individual is on a low income and is purchasing a property from the Council
- Movement of funds overseas, particularly to a high-risk country
- Individuals and companies that are insolvent but have funds • Purchase of property (e.g. a Council house) where no mortgage is involved

5. Relevant Criteria and application of the Policy

Identification, information about source of money, and record-keeping

In some circumstances you may wish to seek confirmation of the identity of an individual involved in a transaction with the Council (such as the purchase of a property from the Council). This could be, for instance, where the individual is not represented by a solicitor (who would be expected to have carried out the necessary checks). Evidence of identification and details of the transaction must be kept for at least 5 years.

Where there is no obvious source of funds, you may consider asking the individual to explain the source of the funds. Assess whether you think their explanation is valid - for example, the money may have been received from an inheritance or from the sale of another property.

Reporting Procedure for Suspicions of Money Laundering

The Council has appointed the S151 Officer and Head of Internal Audit as appointed officers. Where you know or suspect that money laundering activity is taking/has taken place, 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.

⁴ NCA an National Crime Agency that aims to protect the public from the most serious threats of organised crime

Your disclosure should be made to the MLRO on the above contact details. The disclosure 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 dates 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
- Why, exactly, you are suspicious.

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 the MLRO to prepare a report to the National Crime Agency (NCA), where appropriate. You should also provide copies of any relevant supporting documentation.

Once you have reported the matter to the MLRO you must follow any directions given to you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

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.

6. Review

Disclosure by the Money Laundering Reporting Officer

Upon receipt of a disclosure of a suspicion, the MLRO must note the date of receipt 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
- Any identification evidence held

The MLRO will undertake such other reasonable inquiries they think appropriate in order to ensure that all available information is considered in deciding whether a report to the NCA is required. The decision will be made in consultation with the Head of Legal. The MLRO may also need to discuss the report with you.

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.

Where the decision verifies the suspicion the MLRO must report the matter as soon as practicable to the NCA on their standard report form.

Where the MLRO suspects money laundering but has a reasonable excuse for nondisclosure (for example, professional privilege), then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Section 151 Officer and Monitoring Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be completed until the NCA has given consent, or the relevant time limits have expired without objection from the NCA.

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 be made.

All disclosure reports referred to the MLRO and reports made by him to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.

7. Further Information

No further supporting documents

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