

Anti-money Laundering Framework

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Policy Statement

Money Laundering is a generic term which covers various illegal activities used to conceal the proceeds of criminal activities and to try and make it look like the proceeds have come from a legitimate source. It can also include more specific offences relating the Financing of Terrorism.

Criminals often target legitimate organisations such as Councils to assist them in their money laundering activities. Anyone who knowingly assists or suspects that they may be assisting someone in money laundering may be prosecuted for their part in the activity.

The Council will do all it can to:

- **prevent, wherever possible, the organisation, its employees and Members from being exposed to money laundering;**
- **identify the potential areas where money laundering may occur and take appropriate action to minimise the risk; and**
- **comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases of Money Laundering.**

Every employee and Member also has a personal responsibility to be vigilant.

1 INTRODUCTION

- 1.1 Money laundering is any activity used to conceal or disguise the nature, source, location, ownership or control of currency or assets. It is most often an attempt to hide the proceeds of dishonest or criminal activity and to try to give the impression that the income is from a legitimate source so that it can be used.
- 1.2 It is often associated with large scale crime such as drug trafficking, terrorist funding and financial crimes involving fraud but the UK legislation also applies to any level of activity used to conceal the source of income which is of benefit to the individual. This can be anything from the proceeds of petty theft or from hiding income to commit benefit fraud up to larger corporate crimes which can involve complex and well planned linked transactions.
- 1.3 The Council is at risk of being used in money laundering activity as many of our activities could appear attractive to someone looking to launder money. For example we collect many sources of income including rents (housing and commercial) business rates and council tax. These could be deliberately overpaid, possibly in cash and then a refund requested which would generate a cheque/bank transfer from the Council and provide a legitimate source for the income. Other areas at risk include property deals either right to buy transactions or larger regeneration/development schemes, partnerships with private sector firms and treasury management activities.
- 1.4 The UK legislation puts a personal responsibility on all individuals to report suspicions of money laundering. This framework aims to provide all employees¹, Members partners and contractors with a structured, supported process by which they can raise concerns of money laundering and to provide information on how they could be affected by the legislation.

¹ The term employees refers to Consultants, Temporary and Agency Staff as well as volunteers.

2 SCOPE OF THE FRAMEWORK

- 2.1 This policy applies to all Members and 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 framework sets out the procedures, which must be followed to enable the Council to comply with its legal obligations. An accompanying Guidance Note sits alongside the framework document giving a brief summary of the impact of the legislation on employees and Members.
- 2.2 Both this framework and the Guidance Note compliment the Council's Speaking Up framework and Anti-Fraud and Bribery framework.
- 2.3 Members and employees have a personal responsibility under the Proceeds of Crime Act 2002 (POCA) and therefore failure to comply with the procedures set out in this framework may lead to criminal prosecution. In addition employees could face disciplinary action in accordance with the Council's Disciplinary Policy and Procedures if they become involved in or fail to report suspicious transactions. Members could also face allegations of breaching their Code of Conduct and be subjected to investigation by the Standards Committee if they fail to comply with these procedures.
- 2.4 In addition failure to implement effective Money Laundering Rules could lead the Council open to prosecution under the Failure to Prevent Fraud offences in the Economic Crime (Transparency and Enforcement) Act 2023

3 WHAT IS MONEY LAUNDERING?

3.1 The Money Laundering offences are:

- **concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of POCA).** This covers hiding an item or its source, removing serial numbers, or changing an item for something else. For example a person using illegally earned money to buy a house or piece of land could claim that a large cash payment is from the death of relative or a lottery win;
- **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 (section 328 of POCA).** This is the actual involvement in or helping to cover up an act – e.g. an employee arranges a refund to be made in relation to a significant overpayment of Business Rates when they suspect the overpayments have been deliberately made by the bill payer;
- **acquiring, using or possessing criminal property (section 329 of POCA) accepting stolen items knowingly or knowingly taking advantage of them or accepting items paid for by the proceeds of crime.** This could be paying significantly less than the value of an item with the suspicion or knowledge that it may be stolen; or
- **becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorism property (section 18 of the Terrorism Act 2000).** This is about hiding income or other items which are being used to fund or carry out terrorist activities.

These are the primary money laundering offences and are thus prohibited activities under POCA.

3.2 There are two ‘third party’ offences relating to the Regulated Sector –

- **failure to disclose one of the primary offences (section 330-332 of POCA),** and
- **‘tipping-off’ (Section 333A of POCA).** Tipping off is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of an investigation or of prejudicing an investigation.

3.3 Most employees of the Council do not fall into the “Regulated Sector” and these offences are unlikely to be committed. The “Regulated Sector” covers activities carried out by organisations who are regularly dealing with large monetary transactions such as financial institutions, lawyers, accountants, estate agents, casinos etc.

3.4 However, all Members and employees could commit the offence of **“doing something which might prejudice an investigation” (Section 342 of POCA)** if they have knowledge of or a suspicion of a Money Laundering Offence being committed and fail to report it so that it can be investigated.

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- 3.5 Criminal Property is defined in Section 340 (3) of POCA as “property”² that is or represents the person’s benefit from illegal actions in whole or part and the person knows or suspects that it is the proceeds of a criminal act.
- 3.6 Potentially any employee could be caught by the money laundering provisions if he/she knows or suspects money laundering and either becomes involved with it in some way and/or does nothing about it. This framework sets out how any concerns should be raised.
- 3.7 Whilst the risk to the Council of contravening the legislation is low, ***it is extremely important that all employees and Members are familiar with their personal legal responsibilities; serious criminal sanctions may be imposed for breaches of the legislation.***

What Are The Obligations On The Council?

- 3.8 The Council’s business is classed as being outside of the “Regulated Sector” for the purposes of the legislation which means we do not need to implement fully the rules around appointing a Money Laundering Reporting Officer and setting up detailed client identification procedures for all clients. However, the Council has voluntarily adopted some of the procedures to help to identify and report any suspicious activity as we may be targeted by people wishing to carry out money laundering activity.

The Money Laundering Contact Officer (MLCO)

- 3.9 Although the Council is not required to formally appoint a Money Laundering Reporting Officer we have nominated people to act as Money Laundering Contact Officers (MLCO). The MLCOs will receive disclosures about money laundering activity within the Council and are aware of the information required and the mechanisms to pass the information on to the relevant bodies. The MLCOs are:

Stephen Baddeley	Judith Aupers	Chris Forrester
Chief Internal Auditor & Risk Manager	Head of Business Support & Assurance	Deputy Chief Executive (Resources) & S151 Officer
Tel – 01543 464415	Tel – 01543 464411	Tel – 01543 464334

²Defined by Section 340 (9) of POCA - “Property is all property wherever situated and includes-
(a) money;
(b) all forms of property, real or personal, heritable or moveable;
(c) things in action and other intangible or incorporeal property.”

4 DISCLOSURE PROCEDURE

Reporting Concerns to the Money Laundering Contact Officer (MLCO)

- 4.1 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 activity under POCA as defined in paragraph 3.1, you must disclose this as soon as practicably possible to the MLCO. **Delays or failure to report may leave you personally liable to prosecution.**
- 4.2 Your disclosure should be made to the MLCO **initially verbally (in person or by telephone)**. You will need to provide as much detail as possible, for example: -
- Full details of 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 sections 327 – 329 of POCA (see section 3.1 above for details), then you will need consent from the National Crime Agency (NCA), via the MLCO, to take any further part in the transaction. You should therefore make it clear in the report whether there are any deadlines for giving such consent e.g. a completion date or court deadline;
 - The type of money laundering activity involved. The MLCO can help identify this.
 - 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

All available information needs to be given to the MLCO to enable them to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare their report to NCA, where appropriate.

- 4.3 Following the initial contact, you should promptly complete the “Report to Money Laundering Contact Officer” Form (with the assistance of the MLCO where necessary) which is attached as Appendix 1. You should also enclose copies of any relevant supporting documentation.
- 4.4 Once you have reported the matter to the MLCO you must follow any directions they 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 MLCO who will refer the matter on to the NCA if appropriate. All employees will be required to co-operate with the MLCO and the Police during any subsequent money laundering investigation.

- 4.5 Similarly, **at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or tell them you have reported the transaction**, even if the NCA has given consent to a particular transaction proceeding; **otherwise you may commit a criminal offence by prejudicing the investigation which carries a maximum penalty of 5 years imprisonment and an unlimited fine.**
- 4.6 Do not, therefore, make any reference on a client file in any form e.g. record of telephone conversation, e-mails etc to a report having been made to the MLCO – should the client exercise their right to see the file, under the Data Protection or Freedom of Information Act, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLCO will keep the appropriate records in a confidential manner.

Consideration of the disclosure by the Money Laundering Contact Officer

- 4.7 Upon receipt of a disclosure report, the MLCO must note the date of receipt on his/her section of the report and acknowledge receipt of it. He/she should also advise you of the timescale within which he/she expects to respond to you.
- 4.8 The MLCO will consider the report and any other available internal information he/she 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;

he/she will undertake such other reasonable enquiries he/she thinks 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 MLCO may also need to discuss the report with you.

- 4.9 Once the MLCO has evaluated the disclosure report and any other relevant information, he/she 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/she needs to seek consent from the NCA for a particular transaction to proceed.
- 4.10 Where the MLCO concludes a referral is needed then he/she must disclose the matter as soon as practicable to the NCA on their standard Suspicious Activity Report (SAR) form and in the prescribed manner³, unless he/she has a reasonable excuse for non-disclosure to NCA (for example, the reporter is a lawyer and wishes to claim legal professional privilege for not disclosing the information).

³ The preferred manner is via the online reporting facility on National Crime Agency website, the designated MLCOs will have accounts set-up for them to use this facility at <https://sarsreporting.nationalcrimeagency.gov.uk/>

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- Where the MLCO suspects money laundering but has a reasonable excuse for non-disclosure then he/she must note the report accordingly. he/she can then immediately give their consent for any ongoing or imminent transactions to proceed. In cases where legal professional privilege may apply, the MLCO must liaise with the 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 undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits⁴ without objection from the NCA.

4.11 Where the MLCO concludes that there are no reasonable grounds to suspect money laundering then he/she shall mark the report accordingly and give his/her consent for any ongoing or imminent transaction(s) to proceed.

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

4.13 ***The MLCO could commit a criminal offence if he/she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and he/she does not disclose this as soon as practicable to the NCA.***

⁴ The time limit after which the transaction can be processed is 7 days from the day after the SAR is submitted if no refusal is received or 31 days from the day the refusal is given if notice to proceed has not been issued earlier.

5 CLIENT IDENTIFICATION PROCEDURE

5.1 Where a cash payment of over £2,000 is received, or where any form of payment from an unknown organisation exceeding €15,000 is received, officers dealing with the matter will need to establish the identity of the individual/company involved to seek to ensure that the risk of receiving the proceeds of crime can be minimised. An unknown person/organisation is someone who the Council has not had any dealings with prior to the transaction e.g. it could be a new developer we have not worked with before on a regeneration scheme.

5.2 For individuals, their passport or photo driving licence should be provided, together with one of the following:

- Utility bills i.e. electricity, water etc. however mobile phone bills are not acceptable
- Mortgage/building society/bank statements
- Credit card statements
- Pension or benefit confirmation letters

If a passport or photo driving licence is not available, then two of the other items listed above will need to be produced.

5.3 For companies, a Companies House Search should be undertaken to confirm the existence of the company and identify who the directors are. Personal identification should then be obtained for the representatives of the company together with proof of their authority to act on behalf of the company. Care should be taken if it becomes clear that the individual has only recently become a director of the company or if there has been a recent change in the registered office.

5.4 For any other type of organisation, for example a sole trader or partnership, personal identification should be obtained for the individuals together with documents indicating their relationship to the organisation.

5.5 Copies of any evidence provided in support of the identification of an individual or organisation should be kept on a central file by the Head of Business Support and Assurance so that it can be referred to later if necessary. Records should be kept for 5 years after the end of the transaction

6 Administrative Arrangements

- 6.1 The Head of Business Support and Assurance has overall responsibility for this framework.
- 6.2 The Council has in place a clear network of systems and procedures to assist it in dealing with fraud and corruption. These arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation. The Head of Business Support & Assurance will maintain a continuous overview of the arrangements in place.
- 6.3 This framework will be reviewed and updated periodically to follow best practice and other changes.
- 6.4 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This framework has been written to enable the Council and all of its employees/Members to meet the legal requirements in a way that is proportionate to the low risk to the Council and its employees of contravening the legislation.
- 6.5 Should you have any concerns whatsoever regarding any transactions then you should contact one of the MLCOs.

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CONFIDENTIAL

APPENDIX 1 - Report to Money Laundering Contact Officer - Suspicious Activity

From _____ Tel _____

Section _____ Date of Report _____

Details of Suspected Offence

Main Subject (Person)

Surname:		Forename(s):		Title:	
Date of Birth:		Gender:			
Occupation:		Employer			
Address (in full inc Postcode) Please state if Home/Business/etc Current or Previous					

Or

Main Subject (Company)

Company Name:		Company No:	
Type of Business:		VAT No:	
Country of Reg:			
Address (in full inc Postcode) Please state if Current or Previous			

Bank Account Details

Account Name:			
Sort Code:		Account No:	

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Other Information

Any knowledge/evidence held to confirm identification and/or address i.e. passport/driving licence etc:

Connected Subject Person (if any)

Surname:		Forename(s):		Title:	
Date of Birth:		Gender:			
Occupation:		Employer			
Address (in full inc Postcode) Please state if Current or Previous					

Or

Connected Subject Company (if any)

Company Name:		Company No:	
Type of Business:		VAT No:	
Country of Reg:			
Address (in full inc Postcode) Please state if Current or Previous			

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Bank Account Details

Account Name			
Sort Code:		Account No:	

Other Information

Any knowledge/evidence held to confirm identification and/or address i.e. passport/driving licence etc:

Reason for the Suspicion

Please set out the reason for the suspicion.

Please continue on separate sheet if required

Have you discussed your suspicions with anyone else?

Yes No

Please tick relevant box

If yes please include details below

Please set out below any other information that you feel is relevant:

Signed _____ **Date** _____

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described.

Appendix 2
Actions Taken by MLCO on receipt of a report

Date report received _____

Date receipt of report acknowledged _____

Consideration of Disclosure

Action Plan

Outcome of Consideration of Disclosure

Are there reasonable grounds for suspecting money laundering activity?

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If there are reasonable grounds for suspicion, will a report be made to NCA?

Please tick relevant box

Yes No

**If yes, please confirm full date of report to NCA: _____
and complete the box below:**

Details of liaison with NCA regarding the report

Who Reported to or Online SAR reference number _____

Notice Period _____ to _____.

Moratorium period _____ to _____.

**Is consent required from NCA to any ongoing or imminent transactions Yes No
which would otherwise be prohibited acts?**

If yes, please confirm full details in the box below

Date consent received from NCA _____

Date consent given by you to employee / Member _____

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

**Date consent given by you to employee for any prohibited act _____
transaction to proceed where no disclosure made.**

Other relevant information:

Signed _____ Date _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS